Chapter CCXXIV. [1]

GERMANE LEGISLATION RETRENCHING EXPENDITURES IN APPROPRIATION BILLS.

1481. An exception to the rule forbidding legislation in a general appropriation bill admits germane legislation retrenching expenditures.

Section 2 of Rule XXI provides:

Nor shall any provisions in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The original rule adopted in 1835 [2] forbidding legislative provisions in general appropriation bills gradually became construed through a long line of decisions to admit amendments increasing salaries but as excluding amendments providing for decreases. To remedy this defeat the House in 1876 [3] on motion of Mr. William S. Holman, of Indiana, amended to the rule to include the following:

nor shall any provision in any such bill or amendment thereto, changing existing law, be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

There was some difference of opinion as to the efficacy of the rule in this form and in the revision of 1880 [4] the provision was omitted in the report of the Committee on Rules. The House declined to approve the omission and after extended debate readopted the provision as follows:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject-matter of the bill, shall retrench expenditures by the

[1] Supplementary to sections 3885–3892 of Chapter XCVII.
[2] First session Twenty-fourth Congress, debates, pp. 1949–57.
[3] First session Forty-fourth Congress, Record, p. 445
[4] Second session Forty-sixth Congress, Congressional Record, p. 201.

reduction of the number and salary of the officers of the United States, by the reduction of the compensation any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

In this form the provision remained unchanged until 1885 [1] when it was again omitted in response to objections that it admitted legislation in the form of riders tending to nullify the effect of the rule as a whole.

The provision was again inserted in the rule for the Fifty-second and Fifty-third Congresses and again discontinued from the Fifty-fourth to the Sixty-first Congresses, inclusive. With the adoption of the rules for the Sixty-second Congress in 1911 [2] it was again incorporated in the rule in its present form and is now a permanent part of the procedure of the House.

1482. The rule admitting legislation to a general appropriation bill when germane and effecting retrenchment of expenditures applies to general appropriation bills only.

On September 23, 1919,[3] the House was in the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (H.J. Res. 208) authorizing the Secretary of War to expend $116,000 for the support of the Army at Camp Hunphreys, Virginia, when Mr. Joseph G. Cannon, of Illinois, offered this amendment:

Strike out "$116,000"and insert in lieu thereof "$115,900: *Provided,* That the Engineer school shall be returned to its former location at Washington Barracks by the end of the present fiscal year."

Mr. Charles Pope Caldwell, of New York, raised a question of order on the amendment.

Mr. Cannon submitted that the amendment was in order as a retrenchment of expenditure.

The Chairman [4] held:

The bill provides that the Secretary of War is authorized to expend a certain sum of money for the completion of bungalow quarters, now partially constructed, including gravel roads, walks, sidewalks, sewers, electric-light lines, heating, water lines, painting, clearing, brushing, grading, sodding, and alteration of existing buildings and miscellaneous incidental construction incident thereto, $116,000.

The amendment proposes to reduce the appropriation to $115,900, with the following proviso:

"That the engineer school shall be returned to its former location at Washington Barracks by the end of the present fiscal year."

The Holman rule applies only to general appropriation bills. It can not be invoked as to this bill. So far as the question of germaneness is concerned, it is clear to the Chair that under section 7 of Rule XVI, which reads as follows:

"And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment"—

the amendment is not germane. The point of order is sustained, and the Clerk will read.

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[1] First session Forty-ninth Congress, Record, p. 333.

[2] First session Sixty-second Congress, Record, p. 80.

[3] First session Sixty-sixth Congress, Record, p. 5799.

[4] J. Hampton Moore, of Pennsylvania, Chairman.

1483. To come within the exception under which legislation is in order on an appropriation bill, an amendment must be germane, must retrench expenditure, and the language in which it is embodied must be essential to the accomplishment of the retrenchment.

On February 29, 1932,[1] the Treasury and Post Office Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

The offices of comptrollers of customs, surveyors of customs, and appraisers of merchandise, 29 in all, with annual salaries aggregating $153,800, are hereby abolished. The duties imposed by law and regulation upon comptrollers, surveyors, and appraisers of customs, their assistants and deputies are hereby transferred to, imposed upon, and continued in positions, now established in the Customs Service.

Mrs. Florence P. Kahn, of California, made the point of order that the paragraph included legislation.

Mr. Joseph W. Byrns, of Tennessee, justified the language of the paragraph on the ground that it provided for a reduction in the number and salaries of officers of the United States and was admissible as a retrenchment.

The Chairman[2] overruled the point of order and said:

It would seem to the Chair that this paragraph is safely in the Holman rule. To be in order under the Holman rule three things must occur—first, it must be germane; second, it must retrench expenditures; and, third, the language embodied in the paragraph must be confined solely to the purpose of retrenching expenditures.

The Chair finds upon examination of the paragraph that it is germane to the portion of the bill wherein it is inserted. The paragraph on its face definitely reduces the number of officers of the United States by 29 and thereby saves $153,800, thus retrenching expenditures.

The remaining question for the Chair to determine is whether there is any language in the paragraph that is legislation which does not contribute to the retrenchment of the $153,800.

The Chair has examined the paragraph with considerable care in order to determine whether the legislation is coupled up with and essential to the reduction of money. It is apparent to the Chair that all the legislation to be found in the paragraph is necessary to accomplish the purpose of retrenching expenditures. The Chair thinks that the paragraph clearly comes within the provisions of the Holman rule and overrules the point of order.

1484. An amendment establishing a minimum rate of compensation was held not to provide for a reduction of expenditures.

On May 17, 1892,[3] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Salaries and commissions of registers and receivers: For salaries and commissions of registers of land offices and receivers of public moneys at district land offices, at not exceeding $3,000 each, $55,000.

Mr. John A. Pickler, of South Dakota, offered the following amendment:

Amend by adding after the word "each" the words "and not less than $1,000 each."

Mr. William S. Holman, of Indiana, having made the point of order on the amendment, the Chairman,[4] after debate, sustained the point of order.

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[1] First session Seventy-second Congress, Record, p. 4957.

[2] Edgar Howard, of Nebraska, Chairman.

[3] First session Fifty-second Congress, Record, p. 4337.

[4] Rufus E. Lester, of Georgia, Chairman.

1485. On February 16, 1933,[1] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union when Mr. John J. Cochran, of Missouri, offered this amendment:

No appropriation contained in this act shall be available for the payment for personal services, either by direct employment of under contract, at a rate of compensation which is less than 35 cents per hour.

Mr. Thomas L. Blanton, of Texas, raised the question of order that the amendment provided legislation on an appropriation bill.

The Chairman[2] sustained the point of order on the ground that the amendment proposed legislation without retrenchment of expenditure.

1486. A provision that no part of an appropriation should be expended for a designated purpose was held to retrench expenditure, but a proposal, in effect repealing the law under which appropriations for that purpose were authorized, was held not to come within the exception.

On June 3, 1892,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read the paragraph providing for the transportation of foreign mails, when Mr. William S. Holman, of Indiana, offered this amendment:

Provided further, That no part of the money hereby appropriated shall be expended in the carrying out of any contract or contracts made hereafter under the provisions of the act entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891.

Mr. Nelson Dingley, jr., of Maine, raised a question of order on the amendment.

After debate, the Chairman[4] held the amendment was in order under the exception to the rule admitting a limitation on expenditure.

Whereupon Mr. George W. Fithian, of Illinois, proposed the following amendment:

Provided, That no further contract shall be entered into by the Postmaster General under said act.

A point of order on the amendment having been raised by Mr. Dingley, the Chairman[5] ruled:

The amendment offered by the gentleman from Illinois changes existing law because it repeals the power conferred upon the Postmaster General by the first section of the act of March 3, 1891. As an amendment to an appropriation bill it must be germane to the subject matter and must retrench expenditure in one or more of the methods pointed out in the rule. The Chair is of the opinion that it does not do this unless by inference, and therefore is not in order.

1487. A proposition to discontinue payment of pensions to a specified class of pensioners is patently a proposition to reduce expenditures.

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[1] Second session Seventy-second Congress, Record, p. 4266.

[2] Anning S. Prall of New York, Chairman.

[3] First session Fifty-second Congress, Record, p. 5004.

[4] John A. Buchanan, of Virginia, Chairman.

[5] William L. Wilson, of West Virginia, Chairman.

On February 16, 1893,[1] the bill (H. R. 10345), a general pension bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. Ashbel P. Fitch, of New York, offered an amendment as follows:

That from and after July 1, 1895, no pension shall be paid to a nonresident who is not a citizen of the United States, except for actual disabilities incurred in the service.

Mr. Augustus N. Martin, of Indiana, made the point of order that it was legislation on an appropriation bill.

The Chairman[2] ruled:

Under the ruling, made when this pension appropriation bill was before the first session of this Congress, an amendment to the pension appropriation bill tending to increase the class of persons prohibited from the benefit of pension law is in order, because its effect will be to reduce expenditures. The Chair overrules the point of order.

1488. On February 1, 1912,[3] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

From and after July 1, 1912, no pension shall be paid to a nonresident who is not a citizen of the United States except for actual disabilities incurred in the service.

Mr. James R. Mann, of Illinois, made the point of order that the paragraph was legislation on an appropriation bill.

Mr. Charles L. Bartlett, of Georgia, declared the amendment was in order under the Holman rule and cited a former decision to that effect made by Chairman William L. Wilson, of West Virginia, in the Fifty-second Congress.

The Chairman[4] said:

The Chair read carefully the decision of Mr. Wilson and has also read the arguments that were made which lead up to that decision. The Chair is constrained to believe that the ruling then enunciated as the only ruling that could be made under the rules of the House. The Chair is still of that opinion and, therefore, overrules the point of order.

1489. A paragraph which did not directly reduce expenditure but which unmistakably contributed to that end was held to retrench expenditures and to be in order on an appropriation bill under the exception to the rule.

The erroneous reference of a public bill remaining uncorrected, it is too late to raise the question of jurisdiction when reported by the committee to which referred.

The title of a bill is not conclusive as to contents or purport of a bill and is not considered in passing upon points of order relating to provisions of the bill proper.

On February 1, 1912,[5] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

The pensioners in the first group shall be paid their quarterly pension on January 4, April 4, July 4, and October 4 of each year; the pensioners in the second group shall be paid their

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[1] Second session Fifty-second Congress, Record, p. 1708.

[2] William L. Wilson, of West Virginia, Chairman.

[3] Second session Sixty-second Congress, Record, p. 1628.

[4] Charles F. Booher, of Missouri, Chairman.

[5] Second session Sixty-second Congress, Record, p. 1648.

quarterly pensions on February 4, May 4, August 4, and November 4 of each year, the pensioners in the third group shall be paid their quarterly pensions on March 4, June 4, September 4, and December 4 of each year.

The Secretary of the Interior is authorized to cause payments of pension to be made for the fractional parts of a quarter which may be made necessary by the transfer of a pensioner from one group to another.

Mr. S. F. Prouty, of Iowa, made the point of order that the paragraph was not germane to the subject matter of the bill, repealed existing law, and violated clause 2 of Rule XXI.

The Chairman [1] ruled:

The gentleman from Iowa makes the point of order to the entire provision of section 2, and bases it upon two grounds. The first is that the section was a whole is not germane to the subject matter of the bill as disclosed in its title. It is not necessary, as I understand, and no authority has been called to the attention of the Chair that it is necessary to disclose all the provisions of a bill in its title. The Chair holds on the first ground that it would not be necessary for the title of the bill to disclose all the provisions of the bill and therefore overrules the point of order on that ground.

Now, the second ground is that it repeals existing law without making any reduction of expenditures as contemplated and provided for in the latter part of clause 2, Rule XXI, of this House.

Perhaps standing alone and not considering the other provisions of this bill that point of order would be well taken. But, as has been well said by several gentlemen arguing the point of order, the bill must be judged by all the provisions that have gone before this one. It will not do to put too narrow a construction on the rule. We might so narrowly construe the rules that the House could not legislate at all. There must be some life and vitality to the rules of the House.

Rule XXI was enacted for the purpose of preventing general legislation upon appropriation bills. Since it has been in force it has received a good many constructions. It has been passed upon by some of the ablest Speakers and parliamentarians in Congress, and I think we can safely follow the construction placed on the rules by former occupants of the chair. I want first to come to the proposition of the gentleman from Iowa, that the committee that reported this bill had no jurisdiction, and consequently, for that reason, the point of order must be sustained.

That precise question has been decided, and I will read the entire decision so that the committee may see just what position we are in so far as that question is concerned.

Section 4365 of the fourth volume of Hinds' Precedents reads as follows:

"4365. According to the later practice of the House the erroneous reference of a public bill, if it remain uncorrected, in effect gives jurisdiction to the committee receiving it."

I take it that if this bill was erroneously referred originally to the Committee on Appropriations, if we follow the decision of Mr. Speaker Crisp it is too late now to raise that point of order, and the Chair so holds.

As to the proposition that it must be shown on the face of section 2 that it reduces the expenditures of the Government, in order to bring it within the Holman rule, that is the real question at issue. I do not think the rule should be so narrowly construed. This section is part of the general legislation of the bill reducing expenditures, and in the Fifty-second Congress this point was debated at length, and two of the men who debated it were Mr. Holman himself, the author of the rule, and Mr. Dingley, of Maine.

I have read their arguments with a great deal of interest and care, and knowing that this point of order was to be made, I took the pains to read up very thoroughly on the question.

I may say to the committee that in arriving at my conclusion in this matter I followed very closely the very able arguments of Mr. Dingley and Mr. Holman, and I have come to the conclusion which I will now state to the committee:

Rule XXI provides that before a proposition changing existing law shall be in order on an appropriation bill it must be germane to the subject matter of the bill and tend to retrench expenditures, and such reduction must be apparent on the face of the bill.

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[1] Charles F. Booher, of Missouri, Chairman.

It is conceded that the new legislation in the bill reduces the number of employees, thereby tending to reduce expenditures, and is germane; but it is contended that the new legislation in subsequent provisions of the bill is subject to a point of order on the ground that such new legislation is a change of existing law, and for that reason is improperly in an appropriation bill and obnoxious to the provisions of Rule XXI.

That there is a reduction of the number of employees of the Government and a consequent reduction of expenditures is apparent on the face of the bill, and if the subsequent provisions of the bill are necessary to carry into effect the prior object—reduction of expenses—they would be germane to the bill and not subject to the point of order. That the only purpose and effect of the new legislation is to give force and effect to the provisions of the bill which tend to reduce the expenditures of the Government must be apparent to all.

The Chair therefore holds that there is a reduction of expense apparent on the face of the bill, and that the subsequent legislation is necessary to accomplish that result and therefore in order.

The Chair overrules the point of order.

1490. Provision that no alteration be made in certain Army regulations unless accomplished without expense to the Government was held not to retrench expenditure with sufficient certainty to come within the exception.

In determining whether a proposition involves retrenchment of expenditures it is competent to take into consideration not only the pending paragraph or amendment but also the entire bill as well as current law and the parliamentary procedure of the House.

That the extent to which a proposal would reduce expenditures, if at all, was a subject of debate, was held not to be ground for sustaining a point of order.

The true criterion is whether the necessary effect of the proposal, operating of its own force, will be a retrenchment of expenditures in one of the three ways indicated by the rule.

On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union and a point of order, made by Mr. George W. Prince, of Illinois, was pending on the following paragraph:

That hereafter all enlistments in the Army shall be made for the term of five years, and for all enlistments hereafter accomplished five years shall be counted as a enlistment period in computing continuous-service pay: *Provided,* That, in the absence of express authority hereafter given by Congress, the uniforms of officers and enlisted men of the Army shall hereafter be and remain as prescribed by War Department orders in force on the 25th day of May, 1911, except for such changes as can be made in the uniforms of enlisted men without loss or additional expense to the Government.

The Chairman[2] said:

In the debate it was contended that in ruling on amendments, or provisions of a bill, under the Holman rule, the Chair must look to the face of the paragraph, or amendment, to determine from such paragraph, or amendment, without extraneous aid or assistance, whether it will effect a retrenchment in expenditures. This is error. Speaker Kerr expressly ruled, and this ruling has been uniformly followed, that in determining whether an amendment will operate to retrench

[1] Second session Sixty-second Congress, Record, p. 2093.

[2] Edward W. Saunders, of Virginia, Chairman.

expenditures, the Chair can look to the pending bill, the specific section or amendment under consideration, the law of the land so far as applicable, and the parliamentary rules and practices of the House. Keeping these aids to a decision in mind, the Chair must determine whether the amendment, or included paragraph, will operate of its own force to retrench expenditures. The mere fact that the Chair may think that it is likely that a section, or an amendment will very probably save a considerable sum of money to the Treasury of the United States, is not a sufficient ground on which to hold that such an amendment, or section, is in order. In the view of the Chair, there must be something more. The amendment, or section, must necessarily bring about such a result, ex proprio vigore in order to be sustained.

Again the view was urged upon the Chair that if the conclusion of retrenchment from the operation of an amendment, or paragraph, is a matter of debate or of argument, if it requires evidence to establish such conclusion, then it does not appear from the provision itself that it will work a retrenchment, and the same will not be in order. This again is error. Any proper sition may be the subject of debate. Conceding that the Chair is limited to the inspection of the face of an amendment or paragraph, even then the proper conclusion to be drawn therefrom may be very appropriately debated. The opponents of the amendment may contend with vehemence that no result of retrenchment will attend its operation, while with equal vehemence and superior logic the friends of the amendment may be able to demonstrate that from its operation such a result would be an inevitable sequence.

Hence, the mere fact that the effect of a proposition may be assailed in debate will not operate to establish its invalidity or put it beyond the pale of the Holman rule. The true doctrine is that with or without discussion the Chair must be satisfied, as a condition precedent to holding an amendment to be in order, that the necessary effect of the same operating by its own force will be a retrenchment of expenditures in one of the three ways indicated by the rule.

The legislative provision which is under attack provides that hereafter all enlistments in the Army shall be for a term of five years. The present law provides that such enlistments shall be for a period of three years. In each case a man may reenlist at the expiration of his term. Provision is made by law for a bonus and an increase of pay on reenlistments. It is perfectly manifest, except under conditions so extraordinary that they may be eliminated from consideration, that under the five-year system of enlistment, compared with the existing three-year system, say, for a period of 15 years, there will be more reenlistments under the three-year than under the five-year system. Hence, the system that will reduce the number of enlistments will effect a retrenchment of expenditures under this head. It is contended, however, that certain other results will attend the five-year system which will make it on the whole a more expensive system than the other. But these results are purely speculative and problematical, and though vehemently asserted are with equal vehemence denied. In its first and immediate operation this provision will certainly effect a manifest and considerable retrenchment.

The Chair is not satisfied that there will be any other result, as a consequence of the five-year system, which will make this system on the whole more expensive, or even as expensive, as the three-year system. The Chair is satisfied as to the immediate retrenchment which will be afforded by this provision, and is far from being satisfied as to any other results. Standing alone this paragraph is in order. The next sentence of the section under consideration is in the form of a proviso, and provides, in substance, that hereafter no changes shall be made in the uniforms of officers and enlisted men, except such changes as may be made in the uniforms of enlisted men without loss or additional expense to the Government. This provision is designed to secure economy of administration, but looking to the same, to the bill, and to the law of the land so far as applicable, will this result be necessarily secured by this language standing alone? Does it require the department to do anything that it can not do, or that it may not do, under existing law? Non constat but that the department, in the absence of this provision, will pursue the very course which the proviso is intended to prescribe. It may decide of its motion, without compulsion, to make no changes in the uniform of soldiers, save such as can be made without loss or additional cost to the Government. Hence, it can not be said that the necessary compelling effect of this proviso is to secure retrenchment. This situation is not like the one presented in the preceding sentence. In that case a three-year term provided for by law, and in present operation, is pro-

posed to be substituted by a five-year term. Hence a comparison can be made between the two systems. Unless the present law is changed the department has not volition save to live under the law of three-year enlistments as it is written. In the instance under present consideration the department is under no compulsion to make changes in uniforms that will cause loss or add expense to the Government. There is no way of demonstrating that in the future it will pursue such a course. Hence, as the Chair has said, there is no way of showing that this proviso will compel a course of action other and different from that which would be pursued in its absence.

Unless it can be reasonably shown that the course hereafter to be followed by the department with add cost and expense to the Government in the matter of uniforms, and that the adoption of the proviso is necessary to compel a different course and reduce that expenditure, then this proviso does not come within the principle of the Holman rule.

The Chair is not unmindful that many amendments are likely to be offered under this rule which are on the border line of order, requiring nice discrimination to determine the side of the one to which they appropriately belong. But the Chair must be satisfied that an amendment is in order to support a favorable ruling. In the present instance the Chair is of opinion that the latter portion of the section is not in order. The point of order is made to the whole section, and under the precedents, if sustained at all, it must be sustained in its entirety. The point of order is sustained to the whole section.

1491. If the obvious effect of an amendment is to reduce expenditures, it is not necessary that it provide for such reduction in definite terms and amount in order to come within the exception.

An amendment providing for 10 Cavalry regiments when the existing law provided for 15 was held to retrench expenditures within the provision of the rule, although the exact amount of the reduction could not be accurately determined.

The rule admitting on general appropriation bills legislative provisions reducing expenditures should be liberally construed in the interest of retrenchment.

On February 9, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. James Hay, of Virginia, offered the following amendment;

Provided, That on and after the 1st day of July 1912, there shall be 10 regiments of Cavalry, and no more, in the United States Army, and that the officers who shall be rendered supernumerary by this reduction in the number of Cavalry regiments shall be retained in service and shall be assigned to vacancies in their respective grades as such vacancies shall occur in the Cavalry, or, in the discretion of the President, to such vacancies in their respective grades as shall occur in any other arm of the service.

Mr. George W. Prince, of Illinois, raised a question of order on the amendment. In debate, Mr. James R. Mann, of Illinois, said:

How does it reduce the amount carried in this bill, I would like to inquire? That amendment does not reduce it; nothing is said in the amendment as to the amount. Now, Mr. Chairman, this is another individual amendment offered on the floor of the House—not a committee amendment. It does not come within the proviso of clause 2, Rule XXI, saying that an amendment, being germane to the subject matter of the bill, shall be in order if it shall retrench expenditures. Not in order under this provision because it is not offered under that provision. It must be in order, if at all, under the provision that it reduces the number and salary of officers of the United States. Now, it does not purport to reduce either the salary or the officers of the United States. It does not purport to reduce the compensation of any person paid out of the Treasury of the United

[1] Second session Sixty-second Congress, Record, p. 1903.

States. If it is proposed to hold amendments like this in order under the Holman rule, there is no limitation upon an amendment which can be offered. Now, the gentleman from Virginia may say this abolishes certain regiments in the Army. That me be true; I do not know. That amendment might be in order if it were offered as an amendment by the committee that had jurisdiction of the subject matter, which is the gentleman's own committee; but if the Chair shall hold that any individual Member on the floor can offer any amendment which he says will retrench expenditures, that it is broadening of the rule which, when the rule was revised, the House thought was improper.

The original Homan rule simply provided that an amendment should be in order, which, being germane to the subject matter of the bill, shall retrench expenditures; and because of the workings of the rule it was revised by the House by their inserting a provision in it that in order to make it in order simply as a retrenchment of expenditures it must come from a committee, and otherwise in order to make it in order it must provide for a reduction in the number or salary or the compensation of persons paid out of the Treasury. Now, this does not do that, and does not purport to do that. If it proposes to abolish officers or cut down their salary, it might be in order.

The Chairman[1] ruled:

The point of order made against the amendment offered by the gentleman from Virginia is that it changes existing law. This is admitted. But it is urged in support of the amendment which is admitted to be germane, that it comes within the Holman rule, and is in order on the ground that it retrenches expenditure.

The Chair desires to place its ruling upon a foundation of authoritative precedent, and to conform to the established and familiar canons of parliamentary construction.

Many rulings have been made under the Holman rule. The Chair has examined these rulings in detail. Some of them are conflicting in part. Others are absolutely irreconcilable. Still others are harmonious and consistent, and may be cited as authority in point. One of these rulings was made upon an amendment offered by the gentleman from Missouri. Mr. De Armond, to a pension appropriation bill. Congressional Record, 1, 52, page 1792. This amendment consisted merely in the addition of the words "or other," to the existing law.

The point was promptly made that this amendment did not show on its face that it retrenched expenditures.

In this connection it is proper to state that it has been expressly held by Speaker Kerr, and concurred in by Chairman William L. Wilson, that in determining whether an amendment will operate to reduce expenditures, the Chair can look at the law of the land, so far as it is applicable. (Hinds, vol. 4, p. 595).

The effect of the amendment offered by the gentleman from Missouri, Mr. De Armond, was to increase the number of persons prohibited from the benefits of a particular clause of the pension law, thereby reducing the number of pensioners, as a necessary sequence. A reduction in the number of pensioners, carried with it a reduction in the amount that would be paid out for pensions, under the general head of pension appropriations. The De Armond amendment was held to be in order. It will be noted that this amendment was not directed to the amount of money actually appropriated by the bill. In terms it did not reduce the aggregate amount specifically carried out for the payment of pensions. But the Chair was justified in concluding, certainly it so concluded, that in the execution of the pension laws the amount otherwise required for the purposes of pensions, would be reduced by the De Armond amendment.

There are few general principles heretofore announced for the interpretation of the Holman rule, proper to be stated in this connection. I quote again from Mr. Chairman Wilson, concurring with Speaker Kerr.

The purpose of the rule (the Holman rule) is not beneficent and proper, and it should have a liberal construction in the interest of retrenchment. (Hinds, vol. 4, p. 594.) Mr. Kerr was universally recognized as a learned and skillful parliamentarian. Mr. Wilson was an exceptionally brilliant and accomplished scholar.

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[1] Edward W. Saunders, of Virginia, Chairman.

In this connection, the Chair will state that it is not necessary, for an amendment to be in order, that it should be specifically directed to a reduction in terms of an amount carried in a bill. Of course if it is addressed to such an amount, and reduces the same in terms, it will be in order. As for instance if the sum of $1,000,000 is appropriated for a designated purpose pursuant to the requirements of existing law and an amendment is submitted, reducing this amount to $995,000, such an amendment will be in order. But the Holman rule admits of other amendments in order. The language of the rules is to the effect that germane amendments changing existing law are in order provided they retrench expenditures, by the reduction of amounts of money covered by the bill.

The words "amounts of money covered by the bill," refer not only to the amounts specifically appropriated by the bill, but to the amounts required under the different heads, or items of expense to which the bill relates. And if the necessary effect of an amendment is to reduce in the operation of the departments, or bureaus, for which appropriations are made, the amount otherwise required for any one, or more heads, or items of expense, then a retrenchment has been effected by a reduction of the amounts of money covered by the bill. It is only in this view of the rule, that the De Armond amendment was in order. This amendment contemplated that in a system involving payments to pensioners, whatever the appropriations might be, the amount actually required for the administration of the law, would be appreciably reduced by a reduction in the number of pensioners. The Chair is not unmindful of the proviso in the second section of Rule XXI, but whatever meaning may be given to the proviso, it should not be construed to take away powers definitely given by the preceding paragraph. This paragraph permits germane amendments to change existing law provided they retrench expenditures in one of three ways. That proviso allows further amendments on the report of the committee having jurisdiction, provided they reduce expenditures. If the committee offers germane amendments, reducing expenditures in any way, they will be in order, and it will not be necessary to refer them to one of three heads. Power of action being plainly given by the paragraph standing alone, the proviso will not be deemed to take away, unless such intention is plainly manifested. The two sections will be construed to stand together, and amendments offered, whether under the first paragraph, or the proviso, will be tested by the requirements of the head which they appropriately fall. This is certain to give a liberal construction to the rule as a whole, in the interests of retrenchment.

The Chair will further say that it is not enough for the Chair to think that an amendment may reduce expenses or that it is likely to reduce expenditures.

The precedents say in this connection that the amendment, being in itself a complete piece of legislation, must operate ex proprio vigore, to effect a reduction of expenditures. The reduction must appear as a necessary result—that is, it must be apparent to the Chair that the amendment will operate of its own force, to effect a reduction. (Manual and Digest, p. 409, Hinds, vol. 4, p. 595). But it is not necessary for this conclusion of reduction to be established with the rigor and severity of a mathematical demonstration. It is enough if the amendment, in the opinion of the Chair, will fairly operate by its own force to retrench expenditures in one of the three ways indicated. This result must be a necessary result, not a conjectural result, or a problematical result. It is true that having reference to the difference of minds, one Chairman might hold that retrenchment would be the necessary result of an amendment, while another Chairman, or the committee on appeal might be a different opinion. But this is inevitable. The law is clear, for instance, that at times a court upon the facts can hold as a matter of law that there was no negligence. Still upon the facts one court will derive this conclusion, while another court, on appeal will reach a different conclusion. The ruling of the Chair on these points is subject to appeal to the committee.

What does this amendment propose to do? The present law provides for an establishment of 15 cavalry regiments. The proposed amendment limits the number of Cavalry regiments to 10. It is difficult for the Chair, by any fair process of reasoning, having reference to known facts, and the relative proportion between the branches of the Army, to see how 15 regiments of Cavalry can be maintained as cheaply as 10, or that a reduction of the Cavalry regiments from 15 to 10 will not effect a reduction in the amount which would be otherwise expended on this branch of the Army under existing law.

This amendment looks to the future, and while it provides for the officers, there is no provision for the retention of the men. But even if the men are retained, there will be a necessary reduction in the matter of horses, equipment, and forage, and so forth, in the case of 10 regiments as compared with 15. Moreover, fewer officers will be required for the Military Establishment, upon a basis of 10 Cavalry regiments as against the existing 15. These results are certain. It is altogether problematical that such additions will be made to the Infantry that the economies effected by reducing the Cavalry regiments from 15 to 10 will be required to meet these additions to the Infantry, or to other branches of the service. Fairly considered the necessary effect of the reduction in regiments proposed by the amendment under consideration is a retrenchment of expenditures. If the Chair was required to determine the precise among saved by this amendment, he would be compelled to rule it out of order. The precise amount of reduction could not be determined. This would be a matter of speculation. But it is clear that a reduction will be effected by the necessary operation of this amendment.

The Chair will cite some additional precedents in support of this ruling:

In an amendment providing that a certain class of persons, now on the pension rolls, shall hereafter not receive pensions, the retrenchment of expenditure is apparent and the amendment is in order. (Manual and Digest, p. 409.)

To the pension appropriation bill, a proposed amendment transferring the Pension Bureau from the Department of Labor to the War Department, also providing that the officers of Commissioner and Deputy Commission of Pensions be abolished, and that the duties of these offices be performed by Army officers, to be designated for that purpose, without additional pay, was held to be in order, being germane, and retrenching expenditures in the manner provided by the rule. (W. G. Wilson, chairman, Hinds, vol. 4, 3887.)

An amendment to the pension appropriation bill providing that no fee shall be paid to a member of an examining board, for services in which he did not actually participate, is not subject to a point of order under this rule, since while it changed existing law, its effect is to reduce expenditures by decreasing compensation. (Congressional Record, 52d Cong., 1st sess., p. 1792.)

The Chair does not undertake to fix in terms the amount of reduction that this amendment will carry, but that a reduction will follow seems to be a fair and necessary conclusion from its provisions.

The Chair wishes to say in conclusion that it has sought to construe this rule, in conformity with the precedents and its manifest intent, so as to give it vital force and effect, and enable the committee operating under its provisions to accomplish some positive results in a way of economic achievement. In the words of Speaker Kerr, it is a beneficent rule. It should be construed to secure beneficent results.

This ruling of the Chair does not take from the committee a particle of authority. In the first instance the Chair must be satisfied that the necessary effect of an amendment offered under the Holman rule will be a retrenchment of expenditures, in conformity with the rule, but from this ruling of the Chair holding the amendment to be in order, an appeal may be taken, and the committee in the exercise of its authority of ultimate interpretation can reverse the Chair if it is in error and fix the interpretation which the committee in its wisdom thinks the rule should carry. The Chair overrules the point of order.

1492. A proposal to replace civilian employees with enlisted men of the Army was held to present a concrete comparison of civil-service salaries with Army pay and to effect a manifest retrenchment of expenditures.

On February 15, 1912,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill, when the committee rose with a point of order pending against this paragraph:

That as soon as practicable after the creation of a supply corps in the Army not to exceed 4,000 civilian employees of that corps, receiving a monthly compensation of not less than $30 nor

[1] Second session Sixty-second Congress, Record, p. 2117.

more than $175 each, not including civil engineers, superintendents of construction, inspectors of clothing, clothing examiners, inspectors of supplies, inspectors of animals, chemists, veterinarians, freight and passenger rate clerks, employees of the Army transport service and harborboat service, and such other employees as may be required for technical work, shall be replaced permanently by not to exceed an equal number of enlisted men of said corps, and all enlisted men of the line of the Army detailed on extra duty in the supply corps or as bakers or assistant bakers shall be replaced permanently by not to exceed 2,000 enlisted men of said corps; and for the purposes of this act the enlistment in the military service of not to exceed 6,000 men, who shall be attached permanently to the supply corps and who shall not be counted as a part of the enlisted force provided by law, is hereby authorized.

On the following day,[1] when the Committee of the Whole resumed consideration of the bill, the Chairman[2] rendered his opinion as follows:

The Chair has already stated somewhat in extenso its opinion of the proper construction of section 2 of Rule XXI. It is impossible, in view of existing law, and having in mind at once the cost of the employees to be replaced and the cost of the employees that will take their places, not to conclude that a reduction will be effected. The amount to be paid to these employees, respectively, is fixed by law. Hence a comparison can be made. This is a constructive piece of legislation which it is competent for the committee to report by virtue of authority given it by Rule XXI under the prescribed conditions. The chair thinks that it is manifest that this section will effect a retrenchment. The point of order is overruled.

1493. A cessation of Government activities was held to involve a retrenchment of expenditures.

On April 16, 1912,[3] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For compensation to clerks and employees at first and second class post offices; in all, $37,878,250.

Mr. James R. Mann, of Illinois, proposed this amendment:

Amend by striking out the words "in all, $37,878,250" and inserting in lieu thereof the following: "In all, $37,878,000: *Provided,* That hereafter post offices shall not be open on Sundays for the purpose of delivering mail to the public."

A point of order that the amendment proposed legislation, raised by Mr. John A. Moon, of Tennessee, was overruled by the Chairman[4] on the ground that the amendment involved a reduction of expenditure.

1494. The transfer of equipment, service, or material from one department to another was ruled not to accomplish a retrenchment of expenditure.

On December 17, 1918,[5] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the

[1] Record, p. 2127.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Second session Sixty-second Congress, Record, p. 4883.

[4] James Hay, of Virginia, Chairman.

[5] Third session Sixty-fifth Congress, Record, p. 598.

paragraph was reached providing for the transportation of mail by airplanes and otherwise, Mr. William R. Green, of Iowa, offered the following amendment:

Provided, That said planes, motors, and material be operated, repaired, and maintained by the personnel of the Air Service of the Army, without expense to the Post Office Department.

Mr. John A. Moon, of Tennessee, raised a question of order on the amendment.

The Chairman [1] ruled:

The Chair will sustain the point of order on the ground that the amendment nowhere reduces the amount covered by the bill, does not reduce the number of employees or officers of the Government, and does not fall within the limits of the Holman rule.

1495. A prohibition against the expenditure of any portion of an appropriation for the purchase of land was held not to retrench expenditure under any of the three methods provided by the rule.

A limitation in order to be admitted must apply only to the money of the appropriation under consideration and may not be made applicable to moneys appropriated in other acts.

On June 12, 1919,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was read containing the following proviso:

That no part of any of the appropriations made herein nor any of the unexpended balances of appropriations heretofore made for the support and maintenance of the Army or the Military Establishment shall be expended for the purchase of real estate.

Mr. Charles R. Crisp, of Georgia, objected and said:

Mr. Chairman, the point of order is that under clause 2, Rule XXI, legislation is not in order on a general appropriation bill unless that legislation comes within one of the excepted classes by reducing the amount of money appropriated by the bill, by reducing the salaries of anybody paid for in the bill, or by reducing the number of employees carried in the bill. Clearly the proviso is legislation and does not come within any of these three excepted classes.

Now, what does this provision do? This provision seeks to tie up the money appropriated in this bill. I concede that you can do that. I concede that would be a limitation, and I concede that that would be in order. But when the bill goes further and seeks to put a limitation interfering with the executive discretion, putting legislation upon appropriations heretofore made it is not a limitation, but is legislation, and is not in order on a general appropriation bill.

The Chairman [2] held:

The Chair holds that the proviso referred to does not come within the limitations permitted on an appropriation bill. Congress has the power to withhold appropriations or parts of appropriations. It has that power to withhold money for the purchase of land heretofore authorized to be purchased, for the pay of airplanes heretofore authorized to be constructed, or the purchase of aero fields heretofore authorized, but the appropriations affected by such limitations must be the appropriations contained in the pending bill. It is stated that this limitation would affect unexpended balances of appropriation that are still available after the 1st of July that are available until expended. If that is true it would be a change of existing law, and the Chair, for the purpose of accomplishing a temporary end, would not hold that in an appropriation bill we can change existing law.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 1063.

[3] Phillip P. Campbell, of Kansas, Chairman.

Now, it is stated that the Saunders decision, on the reduction of Cavalry, is in point. The Chair does not have to review the Saunders decision. It is only necessary to say that the Chair does not take the view that the Holman rule applies in this case. The Chair is not aware of the amount or the extent to which expenditures could be retrenched or made. The Chair has endeavored without result to ascertain the amount, if any, that would be saved. In the Cavalry case it could have been figured to a mathematical certainty just the amount that could be saved by the reduction of the troops of Cavalry. The units were counted there. Here the Chair is simply advised that there are unexpended balances available until expended after the 1st of July, which would be affected by this proviso. That would change the law, and we can not change existing law in that way.

The Chair sustains the point of order.

1496. Affirmative directions coupled with an amendment retrenching expenditure were held to be so associated with the retrenchment as to be admissible.

On February 25, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The subtreasuries located at Baltimore, New York, Philadelphia, Boston, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco shall be discontinued December 31, 1920, or at such earlier date with respect to each such subtreasury as may be determined by the Secretary of the Treasury, and upon each such discontinuance all offices created under existing laws at each such subtreasury shall be abolished. All employees in the subtreasuries in the classified civil service of the United States, who may so desire, shall be eligible for transfer to classified civil-service positions under the control of the Treasury Department, or if their services are not required in such department they may be transferred to fill vacancies in any other executive department with the consent of such department. To the extent that such employees possess required qualifications, they shall be given preference over new appointments in the classified civil service under the control of the Treasury Department in the cities in which they are now employed.

Mr. Edmund Platt, of New York, offered the following as a substitute for the paragraph:

That section 3595 of the Revised Statutes of the United States, as amended, providing for the appointment of an assistant treasurer of the United States at Boston, New York, Philadelphia, Baltimore, New Orleans, St. Louis, San Francisco, Cincinnati, and Chicago, and all laws or parts of laws so far as they authorize the establishment or maintenance of offices of such assistant treasurers or of subtreasuries of the United States are hereby repealed from and after July 1, 1921; and the Secretary of the Treasury is authorized and directed to discontinue from and after such date or at such earlier date or dates as he may deem advisable, such subtreasuries and the exercise of all duties and functions by such assistant treasurers or their offices. The office of each assistant treasurer specified above and the services of any officers or other employees assigned to duty at his office shall terminate upon the discontinuance of the functions of that office by the Secretary of the Treasury.

That the Secretary of the Treasury is hereby authorized, in his discretion, to transfer any or all of the duties and functions performed or authorized to be performed by the assistant treasurers above enumerated, or their offices, to the Treasurer of the United States or the mints and assay offices of the United States, under such rules and regulations as he may prescribe, or to utilize any of the Federal reserve banks acting as depositaries or fiscal agents of the United States, as provided by existing law, for the purpose of performing any or all of such duties and functions. Notwithstanding the provisions of section 15 of the Federal reserve act, as amended, or any other provisions of law, the Secretary of the Treasury may deposit or carry with any Federal reserve

[1] Second session Sixty-sixth Congress, Record, p. 3476.

bank any securities, moneys, bullion, or funds authorized by law to be deposited or carried with the Treasurer of the United States or with any of the assistant treasurers: *Provided, however,* That any such trust funds or other special funds or special deposits of securities, moneys, or bullion deposited or carried with a Federal reserve bank shall be kept separate and distinct from the assets, funds, and securities of the Federal reserve bank and be held in the joint custody of the Federal reserve agent and the Federal reserve bank: *And provided further,* That nothing in this section shall be construed to deny the right of the Treasury to use member banks as depositaries as heretofore authorized by law.

That the Secretary of the Treasury is hereby authorized to assign any or all the rooms, vaults, equipment, and safes or space in the buildings used by the subtreasuries to any Federal reserve bank acting as fiscal agent of the United States.

All the employees in the subtreasuries in the classified service of the United States, who may so desire, shall be eligible for transfer to classified civil-service positions under the control of the Treasury Department, or if their services are not required in such department they may be transferred to fill vacancies in any other executive department with the consent of such department. To the extent that such employees possess required qualifications, they shall be given preference over new appointments in the classified civil service under the control of the Treasury Department in the cities in which they are now employed.

Mr. William S. Vare, of Pennsylvania, made the point of order that the substitute provided legislation without reducing expenditures.

The Chairman [1] ruled:

It is clear that this is legislation and out of order on the bill unless it comes under the Holman rule. To come under the Holman rule it is only necessary to show that it will reduce the number of officers, retrench expenditures, and save money. A similar item to this, provided by the Committee on Appropriations, has twice been ruled upon, repealing a law or modifying or changing the law concerning subtreasuries. The amendment of the gentleman from New York introduces some new features, but in the main the Chair is inclined to think that it follows, in so far as the reduction of expenditures is concerned, the provisions of the committee which the Chair would have held to be in order.

The Chair does not believe that he has any right to guess as to whether in the long run this would reduce expenditures or not, but it seems absolutely clear on the face of it that if this amendment, abolishing as it does all the officers of the subtreasuries, merely, transfers the employees to some other sphere of duty, it must necessarily save money, and therefore the Chair thinks it comes under the Holman rule and is in order. The Chair therefore overrules the point of order.

1497. The sale of Government property, even where proceeds of such sale are to be applied to maintenance of governmental activities, thereby reducing appropriations required for that purpose, was held not to effect a retrenchment of expenditures.

On April 29, 1921,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When a paragraph providing for contingent expenses of the Army was read, Mr. James W. Husted, of New York, offered this amendment:

Provided, That the Secretary of War is authorized, in his discretion, to sell to any State or foreign government, upon such terms as he may deem expedient, any materiel, supplies, or equipment pertaining to the Military Establishment as or may hereafter be found to be surplus, which are not needed for military purposes, and for which there is no adequate domestic market, and that any moneys received on account of such sales shall be applied to the pay of the enlisted

[1] Nicholas Longworth of Ohio, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 815.

men of the Army and shall to the extent of the amount thereof reduce the sum appropriated for such purpose.

Mr. Anthony J. Griffin, of New York, made a point of order against the amendment.

The Chairman [1] held:

The gentleman from New York makes the point of order that the pending amendment is legislation carried on a general appropriation bill. The other gentleman from New York, who offers the amendment, contends that because his amendment provides that the proceeds received from the sale of these surplus goods shall be applied to the pay of the Army and that the amount carried in the appropriation bill be correspondingly reduced, it is thereby brought within the Holman rule.

It seems too clear to need elucidation that at the very best the gentleman's amendment amounts to simply taking money out of one pocket and putting it into the other. It amounts to exchanging property already belonging to the United States for cash or credit, which would also belong to the United States, and in no real sense reduces the appropriation.

The property involved now belongs to the United States; therefore the amendment does not necessarily retrench expenditure in any way. The Chair sustains the point of order.

1498. While the proposition to establish a minimum salary does not provide for retrenchment of expenditures, a proposal to fix a maximum salary below that authorized by law effects a reduction of salary and is in order on an appropriation bill.

On August 12, 1921,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph providing for expenses of the United States Shipping Board was reached.

Mr. William B. Oliver, of Alabama, offered an amendment providing that no employee of the board should be paid a salary in excess of $12,500.

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was not a limitation and therefore not in order on an appropriation bill.

The Chairman [3] said:

The amendment which is offered is:

"Provided further, That no officer or employee of the Shipping Board shall be paid an annual salary or compensation in excess of $12,500."

This plainly is legislation and unless excepted by some rule would not be in order on an appropriation bill. The Chair has not been able in the limited time allowed him to find any precedent, if there be any, on this particular question. However, the Holman rule, section 2 of the Rule XXI, seems to give the Chair all the right that is necessary for the Chair to have here. It provides:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matters of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

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[1] John Q. Tilson of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 4948.

[3] William J. Graham, of Illinois, Chairman.

In the judgment of the Chair, this has the effect to reduce the compensation of certain persons paid out of the Treasury of the United States. All the light the Chair has on the subject is gathered from the debate during the discussion on this bill, but it is evident to anyone that there are salaries paid largely in excess of $12,000. The Chair is of the opinion that under the rule cited the amendment is in order, and therefore overrules the point of order.

1499. On March 25, 1924,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the paragraph appropriating for contingent expenses of the Army was reached, Mr. Elton Watkins, of Oregon, offered this amendment:

Provided further, That no auctioneer shall be paid more than $100 per day out of any money appropriated by this act for services rendered.

Mr. John Jacob Rogers, of Massachusetts, made the point of order that the amendment was not germane and proposed legislation.

The Chairman[2] ruled:

The language of the amendment is—

"*Provided further,* That no auctioneer shall be paid more than $100 per day out of any money appropriated by this act for services rendered."

This clearly is not a limitation on the appropriation, because it simply fixes the pay that the auctioneer shall receive at not more than $100 a day. It does not limit the expenditure of the $50,000 appropriated; but on the other hand, inasmuch as it limits the pay of the auctioneer, it comes under a section of the Holman rule, and is in order; and therefore the point of order is overruled.

The money is appropriated by this paragraph to further sales of material, as is shown by the limitations contained in the proviso. It pertains to the salaries of civilian employees connected with the sale of war supplies, and also limits the sum to be obligated for advertising sales; so that it is germane, in the judgment of the Chair.

1500. Provision for mere reduction of number and salary of officers of the United States in a paragraph complicated by other elements involving problematic reduction in expenditures does not bring a proposition within the exception admitting legislation on an appropriation bill.

On December 9, 1922,[3] the Treasury Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph directing the Secretary of the Treasury to substitute power presses for certain hand presses in use in the Bureau of Engraving and Printing.

Mr. Frederick N. Zihlman, of Maryland, made the point of order that the paragraph was in violation of clause 2 of Rule XXI.

The Chairman[4] said:

This bill reported by the Committee on Appropriations, under the heading of Bureau of Engraving and Printing, has this paragraph:

"The Secretary of the Treasury is directed, as soon as possible after the approval of this act and not later than September 30, 1923, to dispense with the use of not less than 196 hand plate printing presses in the Bureau of Engraving and Printing and to substitute therefor not more

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[1] First session Sixty-eighth Congress, Record, p. 4985.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 256.

[4] Everett Sanders, of Indiana, Chairman.

than 58 power plate-printing presses, and hereafter he is authorized to print from plates of more than four subjects each upon power presses the fronts and backs of any paper money, bonds, or other printed matter now or hereafter authorized to be executed at such bureau; and the Secretary shall, in the performance of the duty and exercise of the authority placed upon him by this paragraph, reduce the number of persons employed in the operation of plate-printing presses by not less than 218."

To that paragraph the gentleman from Maryland, Mr. Zihlman, makes the point of order that it changes existing law and violates the provision of clause 2 of Rule XXI, which says:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, exempt such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Then there is an additional proviso which is not involved.

The gentleman from Illinois, Mr. Madden, does not dispute the proposition that the proviso changes existing law, but seeks to justify the paragraph upon the ground that it shows upon its face that it is a retrenchment in expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

The Chair in passing on this rule is governed by the face of the bill and the law and the rule. The rule laid down by Speaker Kerr in this respect was as follows:

"In considering the question whether an amendment operates to retrench expenditures, the Chair can look only to what is properly of record before him—that is, the pending bill, the specific section under consideration, the law of the land, so far as it is applicable, and the parliamentary rules and practice of the House; and beyond these he is not permitted to go in deciding the question."

The Chair takes it that no one will seriously contend that that is not the rule. The point of order is directed to the whole paragraph. Of course, if there is any part of the paragraph that is not in order, the paragraph must go out. It is all involved in one proposition, which is obviously an attempt at "retrenching expenditures" under the rule.

You will note by the language of the rule that it is not enough that the measure reduces the number and salary of the officers of the United States or reduces the compensation of any person paid out of the Treasury. It must "retrench expenditures" by doing that. The many rulings on this question are fairly uniform. They all hold that when, on the face of the bill, the proposed new legislation retrenches expenditures in one of these three ways the point of order should be overruled, and the rule is generally laid down that the construction should be liberal in favor of retrenchment of governmental expenditures.

The noted parliamentarian, the late Mr. Mann, in arguing this question in a case which has not been cited here, but which the Chair thinks is very much in point, laid down what seems to me the rules governing the decision on this point of order.

There was an amendment offered which provided for a vast expenditure for an asphalt machine, and also provided in the same amendment that there should be a decrease in the expense of doing asphalt work. In discussing the different phases of the matter Mr. Mann made this statement:

"The original Holman rule provided—

"'Except such as being germane to the subject matter of the bill shall retrench expenditures."

"We put a limitation on that. It must retrench expenditures in certain ways now. It is not sufficient to say now that a proposition shall retrench expenditures or must retrench expenditures by the reduction of the amount of the salary of an officer, by the reduction of the compensation, or by the reduction of the amounts of money covered by the bill. I am not referring to the proviso yet. So, if an amendment was out of order under the original Holman rule it is out of order under this provision, because this is a mere limitation upon the original Holman rule.

"While it is not necessary at this time to discuss the proviso in the Holman rule, because that question is not presented, I take it that there the same rule applies as to the retrenchment of expenditure under the original Holman rule, because now a committee is authorized, which has jurisdiction of the subject matter, to offer an amendment on an appropriation bill which shall retrench expenditures. But the basic ruling of all has been that of Speaker Kerr, that the retrenchment of expenditures could not be a matter of argument. It is not a matter for the Chair to determine whether the transfer of the Indian Office to the War Department is a retrenchment of expenditure. It is not for the Chair to determine whether the construction of an asphalt plant is a retrenchment of expenditure. That is an argument pure and simple. People may differ about that. The Chair can only act upon the proposition which is presented on the face of that proposition."

Now, coming to this provision, to which the point of order is directed: It directs the Secretary of the Treasury to substitute 58 power plate-printing presses for 196 hand plate-printing presses, and also to discharge not less than 218 employees. Of course it is admitted that it is going to require the expenditure of money to purchase the presses, but following the ingenious argument that the Government may already have the printing presses on hand, it seems to the Chair that the Chair is unable to determine as a matter of law that that will effect retrenchment of expenditures, so far as the face of the bill is concerned. It certainly may require the expenditure of a vast sum of money to buy printing presses. It may not, but it may require it. They are to be substituted for the others. There is going to be a change in the cost of the overhead with reference to printing presses. That is clear. The amount of that cost is entirely conjectural, is subject to argument, and depends upon extraneous matters not in the record. I asked the gentleman from Illinois if there were 15 men discharged it clearly would not be in order, and the Chair is unable to go up to the point where he can say what number of employees to be discharged makes the provision in order. It would require the Chair to go out and try the question of fact, which depends on statements which might vary, and require the Chair to determine questions of fact, weigh evidence, and search the record in the hearing, which would be a dangerous precedent. Where one paragraph containing new legislation provides in one part for a discharge of employees, which will mean a retrenchment, and to bring about this particular retrenchment substantial expenditures will with reasonable certainty be made and the amount of those expenditures is not capable of definite ascertainment, the Chair is unable to hold that the net result will retrench expenditures. The Chair is of the opinion that this paragraph is subject to the point of order, and the point of order is sustained.

Thereupon an amendment was offered by Mr. Martin B. Madden, of Illinois, eliminating the provision requiring the additional expenditure. The Chair overruled a point of order by Mr. Zihlman and said:

The amendment offered by the gentleman from Illinois reads as follows:

"Hereafter the Secretary of the Treasury is authorized to print from plates of more than four subjects each upon power presses the fronts and backs of any paper money, bonds, or other printed matter, now or hereafter authorized to be executed at the Bureau of Engraving and Printing; and the Secretary shall, in the exercise of the authority conferred upon him by this paragraph, reduce the number of persons employed in the operation of plate-printing presses by not less than 218."

The Chair is of opinion that the amendment comes within the ruling of Chairman Crisp, which holds that where the retrenchment is apparent upon its face the amendment is in order. The Chair overrules the point of order.

1501. On February 2, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was read:

For pay of officers of the line and staff, $42,000,000.

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[1] Third session Sixty-sixth Congress, Record, p. 2474.

Mr. William J. Fields, of Kentucky, proposed this amendment:

Provided, That no part of this appropriation shall be used for the purpose of paying officers exceeding 1 general, 14 major generals, 31 brigadier generals, 400 colonels, 450 lieutenant colonels, 1,497 majors, 2,994 captains, and 2,844 first lieutenants.

Mr. Frank L. Greene, of Vermont, made a point of order on the amendment and said:

Will the Chair permit me to call his attention to the Army reorganization act, approved June 4, 1920, section 4:

"There shall be one general, now authorized by law, until a vacancy occurs in that office, after which it shall cease to exist. On and after July 5, 1920, there shall be 21 major generals and 46 brigadiers of the line, 595 colonels, 674 lieutenant colonels, 13,245 majors, 4,490 captains, 4,266 first lieutenants, 2,694 second lieutenants, and also the officers of the Medical Department, chaplains"—

And so forth.

There is the plain authorization by statute to the War Department to maintain these officers until a change in the statute takes away that authority and right.

The Chairman [1] held:

The Chair has read the amendment and the law far enough to see that there is a change of the law attempted by the amendment. The Chair did not go through the amendment and the law to make a count to determine whether there are more officers or less officers in the amendment. There is no reduction apparent on the face of the amendment in the amount carried in the bill. The Chair up to this point has not been informed of any reduction that would bring the amendment under the Holman rule.

Whereupon Mr. Fields offered the amendment in this form:

Strike out the figures "$42,000,000" and insert in lieu thereof "$30,000,000" and add:

"Provided, That no part of this appropriation shall be used for the pay of to exceed 1 general, 14 major generals, 31 brigadier generals, 400 colonels, 450 lieutenant colonels, 1,497 majors, 2,994 captains, and 2,844 first lieutenants."

The Chairman ruled:

The amendment as modified carries a smaller amount, which clearly brings it within the Holman rule, and the Chair overrules the point of order.

1502. By retrenchment of expenditures is meant reduction in amounts taken from the Federal Treasury.

An amendment substituting for a percentage contributed to the District of Columbia a lump sum amounting to less than the aggregate of such percentage was held to be in order as a retrenchment of expenditures.

On May 1, 1924,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a provision providing for payment of 40 per cent of appropriations for support of the Government of the District of Columbia from the Federal Treasury Mr. Louis C. Cramton, of Michigan, offered the following amendment:

Strike out "40 per cent of each of the following sums, except those herein directed to be paid otherwise," and insert in lieu thereof the following: "$8,000,000."

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 7638.

Mr. R. Walton Moore, of Virginia, made the point of order that the amendment proposed legislation on an appropriation bill.

Mr. Cramton explained:

Mr. Chairman, the amendment which I have offered is in order under the Holman rule. The bill before us appropriates $23,755,000, of which 40 per cent is to be paid from the Federal Treasury, or $8,967,666.08. The amendment which I have offered proposes that instead of contributing that 40 per cent, amounting to $8,900,000 plus, the contribution shall be simply $8,000,000. On the face of the bill it is apparent that it is a reduction in the charge upon the Federal Treasury.

The Chairman [1] ruled:

The Holman rule is involved here. That portion of it relating to this matter says:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salaries of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Of course it is contended here that this amendment comes under the rule because of a reduction of the amount of money covered by the bill. It is admitted in the argument that it is legislation, and the only question then for determination is whether it is a retrenchment. As to that matter the Chair is largely influenced by the opinions of past Chairmen and Speakers. It seems to me that in such an investigation it is not the business of the Chair to investigate the facts and try to find out whether in fact it does or does not involve retrenchment. It is the business of the Chair, if he can determine it on the face of the bill, to so determine. If he can not, then he ought not to go into an investigation of the facts to see if in fact it will constitute a retrenchment.

However, the Chair is justified in looking at the report which accompanies this bill. This report shows that the total amounts payable from the United States Treasury at 40 per cent is $8,973,666.80. The statement is made in the report that of the total amount recommended by the committee—that is, on the second page of the report—the Federal Government's share is $8,973,666.80.

That leads to another inquiry. When the Holman rule says "retrenchment" does it mean retrenchment so far as the Federal Treasury is concerned, or does it mean a retrenchment in the total amount expended? In other words, are we here to regard only the Federal Treasury and regard the District funds as something separate and apart? What does the word "retrench" mean? Does the term "retrenchment of expenditures covered by the bill" simply mean the funds that are to come out of the United States Treasury and not refer to the District of Columbia funds?

The Chair was of the impression when this question first arose that these refunds mentioned in the act of June 29, 1922, would operate as an offset to the amount carried by this bill, and therefore it might not be possible to tell whether the $8,000,000 was a retrenchment or not. But it appears on further consideration of the matter that the bill carries an appropriation from the Federal Treasury of $8,793,000. That is subject, of course, to reduction or retrenchment by any amounts that will be paid into the Treasury as the result of drawbacks, whatever they may be. The fact that they are set-offs to the amounts covered by the appropriation bill will not change the amount at all if the amount covered by the bill is $8,000,000. Manifestly the same offset will occur whether the appropriation is 40 per cent and the amount $8,973,000, or whether it is $8,000,000, and therefore the amount will be reduced equally in any event.

The Chair is justified in assuming the amount is properly stated in the report accompanying the bill. The Chair has not computed it but is justified in assuming $8,000,000 a retrenchment and reduction below $8,793,000.

The Chair will state his idea about retrenchment. Under the ruling read by the gentleman from Michigan the word "retrenchment," as used in Rule XXI, was held to the retrenchment of

[1] William J. Graham, of Illinois, Chairman.

the amount to be taken out of the Federal Treasury. It does not mean the total amount appropriated by the bill but the amount taken out of the Federal Treasury. The amount in this case would be $8,000,000, and the rest would be taken out of the Treasury of the District of Columbia, which is a separate governmental entity, and while under the control of Congress the funds are its own and the retrenchment of the amount covered by the bill is a retrenchment of the amount from the Federal Treasury. In view of these considerations, the Chair overrules the point of order.

1503. Indian officials are officers of the United States and a reduction in their number and salary is a retrenchment of expenditure within the meaning of the rule.

A reduction in the amount of money appropriated from trust funds held in the Federal Treasury is a retrenchment of expenditure and within the exception provided by the rule.

On April 8, 1912,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph had been read on the previous day:

For expense of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided,* That $25,000, or so much as may be necessary, of the above amount is hereby appropriated and made immediately available for payment of salaries of persons employed in connection with the work of advertising and sale of surplus and unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be expended under the direction of the Secretary of the Interior: *Provided further,* That during the fiscal year ending June 30, 1913, no money shall be expended from the tribal funds belonging to the Five Civilized Tribes, except for schools, without specific appropriation by Congress.

A point of order raised by Mr. Clarence B. Miller, of Minnesota, was pending on the paragraph.

The Chairman[2] ruled:

It has been both a pleasure and a profit to the Chair to give the advocates and opponents of the point of order at issue unlimited time and scope for the presentation of arguments, and they have shown a familiarity with the question and a tendency to frankness and fairness which entitles them to special commendation. The Chair considered these evidences of careful research and skillful preparation of facts as conclusive assurance of wholesome legislative endeavor, and hopes he may have as much concern for good government in his ruling as the Members have indicated in their active solicitude for right legislation in this matter.

The Holman rule is, in the opinion of the Chair, peculiarly suited to the pending point of order in that it furnishes an opportunity to exercise his judgment in behalf of emergent needs or demands like the controverted provision in this bill whereby a saving in Government expenditures is unquestionably implied and expressed. This rule, which is No. 21, sets forth in the second paragraph as follows:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon

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[1] Second session Sixty-second Congress, Record, p. 4428.

[2] Henry A. Barnhart, of Indiana, Chairman.

the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

The Chair hears no specific question raised against the position of the proponents of the bill that the paragraph which the point of order seeks to eliminate is both theoretically and practically germane. The contenders that the point of order should be sustained only insist that the limit of expenditures therein contemplated does not pertain to the United States revenues proper and therefore the Holman rule exception or exceptions do not apply. But it has been shown, and not disputed, that most of the officials who would be affected by this legislation are under United States civil-service regulations and are thereby manifestly recognized as Government officials or employees. And if they are so considered and are regulated and paid the same as other Government officials, the common sense conclusion is that they should be considered as such; and if they are within the list of "officers of the United States," either technically or practically, the reduction of their number and of the amounts paid to them as salaries and expenses, wherein the Government is responsible, would bring the provision of the bill for their curtailment purely within the concept of the Holman rule. On the other hand, if it be that they are in no way a part of the Government services; that the United States does not consider them within its service as officials and employees; and if the proposed reduction in expenditures can not properly be considered retrenchment of expenditures for the Government, then the course for the Chair would be clearly blazed by the facts.

But most of these premises are matters of doubt. The rule plainly sets forth that no provision in any appropriation bill or amendment thereto changing existing law shall be in order except where the said change shall retrench expenditures.

The gentleman from Minnesota contends, with unchallenged argument, that the enactment into law of the provision in the bill here in dispute would curtail the scope of service now given to the Indians by the Government, in substance, strip the Indians of official guardianship that would be detrimental to their welfare and their communities' well-being. And the gentleman from Oklahoma, Mr. Ferris, admits that curtailment of officers is the intent of the provision, and declares it to be a complete indictment of the position of the gentleman from Minnesota that the Holman rule can not here apply, although reducing the number of officers and reducing expenditures is precisely what the Holman rule specifies as permissible new legislation in an appropriation bill.

Another contention of the gentleman from Minnesota and others is that the officers and expenditures to be reduced by the provision of the bill are not United States officers nor United States expenditures, but Indian guardianship officers and expenditures. Of course the Chair is fully advised that, technically speaking, the money to pay the expenditures which it is sought to limit by the provision of the bill now in consideration is a trust fund to which the Government has no right or title except to hold and expend as directed by law. But here in question of Government authority in so-called fiduciary capacity involves Government liability and responsibility, and it requires more judicial acumen than the Chair possesses to decide that those employed by the Government, obligated by the Government, and paid out of Government trust funds are any the less officers of the United States than if they were employed by the same general agency to perform service in some other branch of Government responsibility.

And so, through the fog of contention, which is well founded in many respects on both sides of this complex parliamentary situation, the Chair sees one undisputed fact standing out clearly, and that is the intent of the Holman rule to enable the Congress to discharge useless officers and reduce expenditures, including salaries, by the broadest possible privilege. Hence, when the Government employs these Indian officers, has power to discharge them pays them through one of the regularly constituted Government bureaus, and recognizes and regulates them in all ways as Government officials, in the opinion of the chair they are in fact such and thereby subject to regulation by Congress.

The Chair, clothed as he is with this temporary authority, is not disposed to be a revolutionist and overthrow the opinion and practices of his illustrious predecessors, but we would have it understood that as a layman rather than an expert, the line of demarcation between the Gov-

ernment acting as trustee for the people as a whole, or for any particular class, is so indistinct that it is not visible in a matter-of-fact discrimination. Therefore, on the wholesome theory that technical error on the side of right is never actually wrong, and that economy in behalf of the Indian wards of the Government is an obligation as sacred and binding as safeguarding the expenditure of the whole people's revenues, the point of order is overruled.

1504. A provision abolishing two offices and creating in lieu thereof one office at a smaller salary than the combined salary of the two offices abolished is a reduction of the number and salary of officers of the United States and is in order on an appropriation bill.

On February 19, 1914,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided,* That the offices of the Commissioner of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished and in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent for the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum.

Mr. James R. Mann, of Illinois, raised a question of order on the proviso.

The Chairman[2] held:

The gentleman from Illinois makes a point of order against the proviso, which reads:

"*Provided,* That the offices of the Commissioner of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent for the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum."

It is contended that this proviso is in order under that portion of the second clause of the Holman rule which reads as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The first question, of course, for the decision of the Chair is whether or not the proviso in the bill against which the point or order is made is germane to the subject matter of the bill. This section of the bill provides for expenses of the Five Civilized Tribes in Oklahoma and the compensation of employees. The proviso seeks to abolish the offices of commissioner and superintendent of Union agency in Oklahoma, which are vested in part, if not in whole, with the administration of the affairs of the Five Civilized Tribes, and clearly, in the opinion of the Chair, the proviso is germane to the subject matter of the bill.

The next question is as to whether or not it retrenches expenditures by the reduction of the number and salary of the officers of the United States, or by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money carried in the bill.

In the opinion of the Chair, it is only necessary to read the language of the proviso in order to see that it comes clearly within the rule, and is therefore in order. It proposes to abolish two officers, that of Commissioner to the Five Civilized Tribes and superintendent of the Union Agency, with salaries, the Chair is informed, of $5,000 and $4,500, respectively, and to substitute therefor

[1] Second session Sixty-third Congress, Record, p. 3676.

[2] Joseph W. Byrns, of Tennessee, Chairman.

one Superintendent of the Five Civilized Tribes at $5,000, which is a reduction in offices and salary and a necessary reduction of the amount of money necessary to be carried in the bill.

The gentleman from Illinois makes the point of order that there is nothing in the proviso to show that the new office created is to perform the duties performed by the two offices which the proviso seeks to abolish. The Chair thinks the language in the proviso to the effect that these two offices are to be abolished. The Chair thinks the language in the proviso to the effect that these two offices are to abolished, and, quoting from the proviso, "and in lieu thereof there be appointed by the President, by and with the advice and consent of the Senate, a Superintendent of the Five Civilized Tribes," clearly shows that the new office is to perform the duties which have been heretofore performed by the two offices which this proviso seeks to abolish, and the Chair therefore overrules the point of order.

1505. Repeal of a statutory provision authorizing the offices of assistant treasurers was held to retrench expenditures by the reduction of the number and salary of the officers of the United States.

The Holman rule is to be construed liberally and any question of doubt is properly resolved in favor of an interpretation contributing to retrenchment.

The Committee on Appropriations, while without general jurisdiction to report legislation, may under the Holman rule propose germane legislation retrenching expenditure.

On March 8, 1918,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

The Secretary of the Treasury is authorized and directed to discontinue the offices of the assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis, and San Francisco within six months after the President shall have proclaimed the termination of the existing state of war between the United States and Germany; and section 3595 of the Revised Statutes of the United States is repealed from and after the discontinuance of the said offices. The Secretary of the Treasury further is authorized to retain only such of the employees of the offices of the assistant treasurers as may be necessary to safeguard the property and funds of the United States such others as in his judgment may be necessary in connection with the discontinuance of the said offices.

Mr. J. Hampton Moore, of Pennsylvania, made a point of order on the paragraph.

After debate, the Chairman[2] ruled:

The application of the Holman rule is a matter that has been the subject of many rulings, but it seems to the Chair that the case under consideration, while not entirely novel, presents a somewhat unusual aspect of this rule.

In connection with the Holman rule, it may be said in a preliminary way that the authorities are agreed that the rule is a wholesome one, and therefore proper to be liberally construed. Hence, if the question presented is difficult of decision under the rule the Chair in case of doubt should resolve that doubt in favor of an interpretation which will submit the paragraph or amendment under consideration to the judgment of the House, which will thereby be put in a position to pass upon the merits of the substantial question in issue. A former Speaker of this body announced the canon of construction for the Holman rule as follows:

The purpose of the rule is most beneficial and proper, and it should have a liberal construction in the interest of retrenchment."

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[1] Second session Sixty-fifth Congress, Record, p. 3224.

[2] Edward W. Saunders, of Virginia, Chairman.

To the same substantial effect Mr. Chairman Crisp:

"The Holman rule is intended to have a beneficial effect upon the Treasury of the United States. If the Chair is in doubt whether an amendment is in order this doubt should be resolved against the point of order, for by so doing the Chair works no hardship upon anyone, but submits to the committee itself the privilege of passing upon the amendment. If the committee favor it, then a majority can adopt it. If a majority is opposed to it, then that majority can reject it. (Manual House Rules, 1916, p. 505.)"

If the contention that the paragraph under consideration was in order, rested exclusively upon the ground that it effected a reduction in the amounts of money covered by the bill, the Chair would be constrained to sustain the point of order raised by the gentleman from Pennsylvania. Plainly the paragraph will not necessarily reduce the amounts covered by the bill, since the provision relating to the offices proposed to be abolished may not take effect within the periods for which this bill makes appropriations.

There is no effective proposition to reduce the amounts covered by this bill for the obvious reason that the reductions which the repealing provision will effect will not of necessity occur within the life of the bill, which is limited to a duration of two fiscal years. There is another feature, however, of the paragraph which has apparently been overlooked, and that is the reduction effected in the number of the officers of the United States. It seems to be conceded as a matter of fact, that this paragraph, if it remains in the bill, will eliminate a very definite number of Federal officials, receiving considerable salaries fixed by law. Looking to the Holman rule, as it appears in the House Manual, section 21, subsection 2, it will be noted that a retrenching amendment, changing existing law, will be in order if it accomplishes any one of several results. The rule is as follows:

"Nor shall any provision in any such bill, or amendment thereto, changing existing law, be in order, except such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

As pointed out, it is not possible to bring the paragraph under consideration, within the benefit of the last portion of the language cited, on account of the uncertainty of the date at which the repealing clause of the paragraph will become operative. But the rule contains another provision, or head, to which the paragraph may be related. The Chair in this connection will call the attention of the committee to this language of the rule: "except such, as being germane to the subject matter of the bill shall retrench expenditures, by a reduction of the number and salaries of the officers of the United States."

The rule does not say at what time this reduction of officers shall take place, but that expenditures shall be retrenched by a reduction of the number and salary of the officers of the United States. This reduction may be effected eo instanti, or at some future date. The one thing needful is that the reduction of the number and salaries of Federal officials shall be effected. Now a very definite number of Federal officials and incidental salaries will be eliminated if this paragraph is retained in the bill.

Section 3595 provides that there shall be assistant treasurers at certain designated places. Section 3596 determines the salaries for these officers. Very well. If the paragraph under consideration repeals the law providing for the assistant treasurers at the places indicated, how can it be argued that salaries can be paid to nonexistent officers? The shadow follows the substance. If the office falls, the officer and the salary falls with it. All that the next section in succession proposes to do, is provide salaries for the officers authorized by the preceding section. The section fixing the salaries of the assistant treasurers is of importance, in the determination of the point of order. It affords the most positive and reliable information as to the extent of the salary reductions effected by the paragraph to which the point of order is directed. Looking to the first section cited and then to the section which provides the salaries for the officers created by the first session, it is easy to determine precisely the aggregate amount of reduction of official salaries effected by the paragraph under discussion, should it be retained in the bill by the action

of the committee. As to the right of the Committee on Appropriations to submit a repealing provision germane to the subject matter of the bill and retrenching expenditures by reducing the number and salaries of Federal officials, the Chair is content to rest his ruling upon the precedents afforded by numerous decisions construing the Holman rule.

The Chair has sought to point out that this paragraph can not be sustained on the ground that it reduces the amounts covered in this bill. But the Chair has also endeavored to point out as a part of his ruling that the paragraph can be sustained under another head, or portion of subsection 2 of Rule XXI. The language of that portion defines precisely how the retrenchment of expenditures may be effected, namely by a reduction of the number and salaries of Federal officials. In order to qualify, so to say, under that language, it is only necessary to show first that the number of Federal officials has been reduced, second that salaries of these officials have also been reduced. Retrenchment of expenditures is established by the mere fact of reduction in the number and salaries of the officers of the United States. The subsection reads:

"Which shall retrench expenses by the reduction of the number and salary of the officers of the United States."

The repealing language of the paragraph provides a very distinct reduction in the number and salaries of officers of the United States. Should this bill become a law, it will be possible to state very definitely the number of officers that will be eliminated, and the consequent reduction in salaries that will be effected. There is no doubt in the mind of the Chairman, and I suppose none on the part of any member of the committee, that this paragraph, once enacted into law, will abolish all of the offices provided for in section 3595, and at the same time eliminate the salaries of fixed for these offices by section 3596.

This being so, this paragraph, in the very language of the Holman rule, will retrench expenditures, and, retrenching expenditures, it thereby becomes in order.

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Mr. Chairman Crisp has ruled on this precise question on March 14, 1916, in a decision reported in the House Manual on page 502. The legislative, judicial, and executive bill was under consideration, and the ruling was upon an amendment offered by the gentleman from Missouri, Mr. Borland. This amendment in substance provided for a reduction in the number of persons in the classified service, to be effective on or before June 30, 1917, and effected certain changes in existing law. The point of order was made that the amendment proposed legislation, and therefore was out of order on an appropriation bill. The Chair first proceeded to determine whether the amendment was germane, and in that connection used the following language:

"The bill before the House is the legislative, executive, and judicial appropriation bill, dealing generally with the salaries of officers and employees of the United States Government. In the main this is the appropriation bill which carries the salaries for the officers and employees of the Government. The amendment seeks to deal with a certain number of the employees of the Government, and the Chair thinks the amendment proposing a new section, dealing with a certain class of Government employees, is germane to the bill. * * * The amendment clearly reduces the salaries to be paid out of the Treasury. The Chair is clearly of opinion that where an amendment is offered reducing the number of salaries paid out of the Treasury, coupled with legislation, that legislation to be in order must be connected up with, related to, or logically follow from the part of the amendment, reducing the number of employees, or the amounts of money covered by the bill. The Chair can not escape the conclusion that if you reduce the number of clerks, the business of the Government will require those remaining in the service to work longer hours. The Chair thinks the legislation naturally and logically follows the provision reducing the number of clerks."

The principles of this decision and of other decisions quoted by Judge Crisp may be readily applied to the case in hand. The same bill is under consideration. It deals with the salaries of these assistant treasurers. In part they are the subject matter of the bill. The repealing language of the paragraph will eliminate these officers and their salaries. It deals with officers to which the bill relates, and for whom it will make appropriations, so long as the offices are in existence. It proposes to change the law which affords the very offices that will be filled by the assistant treasurers, until the offices themselves are abolished. Hence, the amendment, that

is the repealing and reducing language, is germane to a bill which proposes to appropriate for these officers. It is not only germane, but it retrenches expenditures in the very manner contemplated by the rule, that is by reducing the number and salaries of Federal officials. Being both germane, and retrenching expenditures, it is in order. It is not material that the officers will be abolished in future. The rule does not require them to be abolished eo instanti. It is enough that they will be abolished at some sufficiently definite date. The abolition effects the retrenchment.

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The Committee on Appropriations is not incapacitated from offering a repealing section effecting a reduction of expenditures. A ruling to the contrary would in substance mean that the Committee on Appropriations could never bring itself within the Holman rule, since that rule contemplates legislation upon an appropriation bill, provided it is germane, and retrenches expenditures. The Committee on Appropriations has no general jurisdiction to enact legislation. It is concerned exclusively with appropriations. In order that it may come within the provisions of the Holman rule, and enact legislation, it must appear that the proposed legislation is related to the subjects for which the committee appropriates, and if enacted will reduce expenditures.

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Now, so far as the suggestion of the Secretary of the Treasury and the merits of the paragraph are concerned, the Chair can not take them into consideration in passing on the point of order. The only thing proper to be considered is whether this paragraph is within the principle of the Holman rule. The Chair thinks it is, and overrules the point of order.

1506. Proposal that an appropriation for pay of a class of employees be restricted to payment of a smaller number than authorized by law was held to involve a reduction of the number of officers of the United States.

On February 3, 1921,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For pay of warrant officers, $1,346,000: *Provided,* That this appropriation shall be used for the pay of not to exceed 1,000 warrant officers.

Mr. Harry E. Hull, of Iowa, made the point of order that the paragraph proposed legislation.

Mr. Daniel R. Anthony, of Kansas, called attention to the law providing for 1,220 warrant officers in the Army and contended that the paragraph reduced expenditures.

The Chairman[2] ruled:

This proviso limits the expenditures to the pay of a smaller number of officers than is authorized, and therefore, in the opinion of the Chair, is clearly within the Holman rule and is a retrenchment. The Chair overrules the point of order.

1507. A proposal to consolidate offices was held to involve reduction in the number and salary of officers of the United States.

On February 11, 1922,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Registers and receivers: For salaries and commissions of registers of district land offices and receivers of public moneys at district land offices, at not exceeding $3,000 per annum each,

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[1] Third session Sixty-sixth Congress, Record, p. 2518.

[2] James W. Husted, of New York, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 2460.

$372,000: *Provided,* That the offices of registers and receivers at the following land offices are hereby consolidated, and the applicable provisions of the approved October 28, 1921, shall be followed in effecting such consolidation: Montgomery, Ala.; El Centro and Susanville, Calif.; Durango, Lamar, and Montrose, Colo.; Coeur d'Alene and Lewiston, Idaho; Topeka, Kans.; Baton Rouge, La.; Cass Lake, Crookston, Duluth, and Jackson, Minn.; Billings, Great Falls, Kalispel, and Missoula, Mont.; Lincoln, Nebr.; Elko, Nev.; Bismarck, N. Dak.; Pierre, S. Dak.; Vernal, Utah; Walla Walla and Yakima, Wash.: *Provided further,* That, with the exception of the land offices mentioned in the last preceding proviso, and also the land offices at Eureka, Calif., and Burns, Oreg., and where the land office shall be the only remaining land office in any State, no money herein appropriated shall be expended for the maintenance of any land office, other than as in provided in this paragraph, in a land district having public land area of less than 100,000 acres, or whose cost of maintenance shall exceed 33⅓ per cent of the revenues of the office for the fiscal year ending June 30, 1922: *And provided further,* That the land office at Springfield, Mo., and the offices of register and receiver thereat are hereby abolished.

Mr. John E. Raker, of California, made the point of order that the paragraph carried legislation without reducing expenditures.

The Chairman [1] ruled:

This section has really three proposals in it—first, to consolidate certain offices; second, a proviso to limit the expenditure of the fund appropriated; and, third, the abolishing of certain offices named in the section. The point of order may be decided, the Chair believes, by a reference to section 2 of Rule XXI of the House, a rule familiar to all of us. The rule provides in part:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and the salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill."

It is very evident to the Chair that the number of officers to be provided for by this section is reduced by this consolidation; in fact, it would seem the number is practically reduced one-half. It is equally evident to the Chair that it does reduce the amount of money to be expended. The Chair finds by reference to the current law that the sum of $450,000 was appropriated for exactly the same purpose for the current fiscal year. For the same purposes this bill proposes to appropriate $372,000, or a reduction from current law of $78,000, a very substantial decreased. The second part of the section is evidently simply a limitation, and the Chair can see no reasonable point that can be made against it. The third part of the section could be properly comprehended within the same reasoning that is used as to the first part of the section, as it is nothing but a proposition to abandon certain offices.

We are not without precedents in this matter. In the Sixty-third Congress, second session, Chairman Byrns of Tennessee presiding, the point of order was made against the following proviso:

"*Provided,* That the offices of the Commission of the Five Civilized Tribes and superintendent of Union Agency, in Oklahoma, be, and the same are hereby, abolished, and in lieu thereof there be appointed by the President, by and with the consent of the Senate, a superintendent of the Five Civilized Tribes, with his office located in the State of Oklahoma, at a salary of $5,000 per annum."

It was contended that the proviso was in order under that portion of the second clause of the Holman rule which I have just read.

The Chair, on consideration of the matters that were urged at that time against the provision, held that the point of order was not well taken. Later, in the consideration of the legislative, executive, and judicial appropriation bill in February, 1920, in the House, Mr. Longworth being Chairman of the committee, a point of order was made against the provisions of that act relative to surveyors general, the effect of which provisions was to abolish several offices of surveyors

[1] William J. Graham, of Illinois, Chairman.

general. The gentleman from California, Mr. Raker, made a point of order at that time against the provision. The Chair in ruling upon it determined that the provisions of the bill did constitute a reduction in appropriation and was in order. He took the appropriation in the then current law and compared it with the expenditures to be made under the proposed bill and finding it was a reduction, held on that comparison that because of that reduction the point of order would not lie. I think these precedents are sufficient. The section is plainly not subject to the objection made, and the point of order is overruled.

1508. An amendment discontinuing the Federal Farm Board and transferring its functions to the Secretary of Agriculture was held to be in order under the exceptions admitting legislation on an appropriation bill.

On April 8, 1932,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Carl Vinson, of Georgia, proposed an amendment as follows:

Provided further, That the Federal Farm Board created by the agricultural marketing act of June 15, 1929, including the offices of eight members of the board at $12,000 each and the respective positions of general counsel at $20,000 and secretary at $8,500, 10 in all, with annual salaries aggregating $124,500, is hereby abolished, effective at the close of business on June 30, 1932. The authority, powers, and duties vested in such board by law and the obligations and rights of such board are hereby transferred to, imposed upon, and vested in the Secretary of Agriculture.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the amendment proposed legislation and was not in order as a retrenchment of expenditure.

After debate, the Chairman[2] ruled:

The gentleman from Georgia proposes an amendment to the Federal Farm Board paragraph of the bill. The amendment in substance abolishes the Farm Board and transfers the duties and activities of that board to the Secretary of Agriculture. The question before the Chair, raised by the point of order, is as to whether or not the gentleman's amendment is in order under the Holman rule. The Holman rule provides that an amendment to be in order, carrying legislation on an appropriation bill, must be germane; that is, it must, under former holdings of Chairmen of this committee, be appropriate, pertinent, and must have a close relationship to the section to which the amendment is directed. In addition to that, it must retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts covered by the bill.

The Chairman then referred to decisions cited in the debate on the point of order and continued:

The Chair is of opinion, after reading those decisions and studying the Holman rule, that the amendment is in order, and, therefore, the Chair overrules the point of order.

1509. On December 4, 1924,[3] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

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[1] First session Seventy-second Congress, Record, p. 7800.

[2] Fletcher B. Swank of Oklahoma, chairman.

[3] Second session Sixty-eight Congress, Record, p. 162.

Registers: For salaries and commissions of registers of district land offices, at not exceeding $3,000 per annum each, $125,000: *Provided,* That the offices of register and receiver of such of the following land offices as may now have two officials shall be consolidated, effective July 1, 1925, and the applicable provisions of the act approved October 28, 1921, shall be followed in effecting such consolidations: Montgomery, Ala.; Anchorage, Fairbanks, and Nome, Alaska; Phoenix, Ariz.; Little Rock, Ark.; Los Angeles, Sacramento, San Francisco, and Visalia, Calif.; Denver, Glenwood Springs, Montrose, and Pueblo, Colo.; Gainesville, Fla.; Boise and Lewiston, Idaho; Baton Rouge, La.; Marquette, Mich.; Cass Lake, Minn.; Havre, Helena, Miles City and Missoula, Mont.; Lincoln, Nebr.; Carson City, Nev.; Las Cruces, Roswell, and Sante Fe, N. Mex.; Bismarck, N. Dak.; Guthrie, Okla.; Lakeview, Portland, Roseburg, The Dalles, and Vale, Oreg.; Pierre and Rapid City, S. Dak; Salt Lake City, Utah; Seattle and Spokane, Wash.; and Buffalo, Douglas, Evanston, and Lander, Wyo.: *Provided further,* That the following land offices are hereby abolished effective July 1, 1925: Harrison, Ark.; El Centro, Eureka, Independence, and Susanville, Calif.; Del Norte, Durango, Lamar, Leadville, and Sterling, Colo.; Blackfoot, Coeur d'Alene, and Hailey, Idaho; Topeka, Kans.; Crookston and Duluth, Minn.; Jackson, Miss.; Billings, Bozeman, Glasgow, Great Falls, Kalispell, and Lewistown, Mont.; Alliance, Nebr.; Elko, Nev.; Clayton and Fort Sumner, N. Mex.; Dickinson, N. Dak.; Burns and La Grande, Oreg.; Bellefourche, S. Dak.; Vernal, Utah; Vancouver, Walla Walla, Waterville, and Yakima, Wash.; Wausau, Wis.; Cheyenne and Newcastle, Wyo., and their necessary personnel, together with such records, furniture, and supplies as may be necessary, shall be transferred to such of the land offices enumerated above and not abolished by this act as the Secretary of the Interior may direct, except that the records of the Topeka, Kans., Jackson, Miss., and Wausau, Wis., land offices shall be disposed of in accordance with existing law.

Mr. John E. Raker, of California, having raised a question of order of the paragraph, the Chairman [1] ruled:

This point of order is made against the proviso which apparently is new legislation. The justification for the new legislation is that it is a retrenchment of expenditures under rule 21, clause 2. The same question was decided in the citation by the gentleman from Michigan in interpreting the rule and, in addition, in the cases cited by the gentleman from Oklahoma. On January 11, 1922, Chairman Graham ruled upon a very similar point of order made by the gentleman from California who now makes the point of order. In rendering the decision in that case, the Chairman said:

"This section has really three proposals in it—first, to consolidate certain offices; second the proviso to limit the expenditure of the fund appropriated; and third, the abolishing of certain officers in the section."

The Chair in that case, after citing a number of precedents, held it was a retrenchment of expenditures under the Holman Rule, and the present occupant of the chair will follow that ruling.

1510. A proposal to limit the number of Army officers paid from an appropriation made for that purpose to a smaller number than that authorized by law, and to recommission officers in lower grades than those occupied at the time, was held to come within the exceptions provided by the rule.

The Committee on Appropriations is authorized to report in an appropriation bill any legislative proposition in order on such bill under the rules.

Opinion that the rule should be strictly construed in order to avoid admission of ineligible legislative riders under guise of retrenchment on general appropriation bills.

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[1] Everett Sanders, of Indiana, Chairman.

On March 21, 1922,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Pay of officers: For pay of officers of the line and staff, $26,896,200: *Provided,* That the sum herein appropriated for the pay of officers shall not be used for the pay of more than 11,000 commissioned officers on the active list, of which number there shall be not to exceed 1 general, 21 major generals, and 46 brigadier generals of the line; the general officers authorized by law for chiefs and assistant chiefs of branches; the number of officers of the Medical Corps now authorized by law of six and one-half for every thousand enlisted men, the number of officers of the Medical Administrative Corps now authorized by law of one for every 2,000 enlisted men, the number of officers of the Dental Corps now authorized by law of one for every thousand officers and enlisted men of the Regular Army; not to exceed 109 commissioned officers of the Veterinary Corps; one chaplain as now authorized by law for every 1,200 officers and enlisted men of the Regular Army, exclusive of the Philippine Scouts; professors at the United States Military Academy; the military storekeeper; and those belonging to branches whose names are carried on the promotion list to be distributed in grades as follows: Not to exceed 4 per cent in the grade of colonel, or 389; not to exceed 4.5 per cent in the grade of lieutenant colonel, or 437; not to exceed 15 per cent in the grade of major, or 1,458; not to exceed 30 per cent in the grade of captain, or 2,915; not to exceed 28.5 per cent in the grade of first lieutenant, or 2,769; and the remainder in the grade of second lieutenant: *Provided further,* That officers found surplus may be recommissioned in the next lower grade in accordance with their standing on the promotion list, or on the relative list if their names are not on the promotion list, or those of less than 10 years' commissioned service in the Regular Army may be discharged with one year's pay, or those of more than 10 years' commissioned service and less than 20 years' service may be placed on the unlimited retired list with pay at the rate of 2½ per cent of their active pay multiplied by the number of complete years of such commissioned service, or those of more than 20 years' commissioned service in the Regular Army may be placed upon the unlimited retired list with pay at the rate of 3 per cent of their active pay multiplied by the number of complete years of such commissioned service, not exceeding 75 per cent; all under such regulations as the President may prescribe.

Mr. Julius Kahn, of California, made the point of order that the paragraph provided legislation on an appropriation bill.

Mr. Thomas S. Crago, of Pennsylvania, raised a further question as to the right of the Committee on Appropriations to report a legislative proposition within the jurisdiction of the Committee on Military Affairs.

The Chairman[2] said:

The gentlemen from California makes the point of order against the entire paragraph, including the appropriation itself and both provisos.

The Chair thinks we should construe the entire paragraph as one concrete whole, especially as it is quite evident that the second proviso is necessary to carry out the first. The gentleman from Pennsylvania raises the question of the jurisdiction of the committee. The Chair does not think there is any question about that. The Committee on Appropriations certainly has jurisdiction to bring in an appropriation bill for the pay of the Army, and it may also bring in a paragraph containing legislation, provided that the legislation is in accordance with the rules of the House is considering an appropriation bill. Of course, there is legislation, in the Chair's view, in both provisos, though he thinks he might hold the first proviso in order as a limitation. But there is legislation in both provisos, and the only question is whether this provision of the Holman rule is applicable to the paragraph under consideration:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter shall retrench expenditures by the reduc-

[1] Second session Sixty-seventh Congress, Record, p. 4197.

[2] Nicholas Longworth, of Ohio, Chairman.

tion of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The present occupant of the chair has been called to rule quite a number of times on the Holman rule, and he is one of those who believes that it should be construed strictly. In other words the present occupant of the chair must see to his satisfaction that the provisions in the bill actually and evidently on their face do reduce expenditures in either of the three ways provided under the Holman rule. It seems to the Chair entirely evident that this provision does reduce expenditures of the Government by a reduction of the number of officers and by the amount of money carried. The Chair thinks that this provision is in order, and therefore overrules the point of order.

1511. A proposition reducing the number of Army officers and providing the method by which the reduction should be accomplished was held to come within the exceptions under which legislation retrenching expenditure is in order on an appropriation bill.

Unlike a provision admitted as a limitation, language admitted under the Holman rule is not restricted in its application to the pending bill but may provide permanent law.[1]

On May 13, 1932,[2] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the section providing pay and allowances for the Army including the following:

Provided further, That after September 30, 1932, the number of officers of the line and promotion-list officers on the active list of the Regular Army shall not exceed 8,930, to be distributed among the following grades in the proportion now authorized by law, namely: Seventeen in the grade of major general, 37 in the grade of brigadier general, 384 in the grade of colonel, 473 in the grade of lieutenant colonel, 1,411 in the grade of major, and 2,822 in the grade of captain, and in the grades of first and second lieutenant the total number shall not exceed 3,786.

Mr. Henry E. Barbour, of California, submitted the point of order that this proposition constituted legislation in that it modified provisions in section 4 of the act of June 4, 1920,[3] reading as follows:

On and after July 1, 1920, there shall be 21 major generals and 46 brigadier generals of the line, 599 colonels, 674 lieutenant colonels, 2,245 majors, 4,490 captains, 4,266 first lieutenants, 2,694 second lieutenants, and also the number of officers of the medical department and chaplains hereinafter provided for, professors as now authorized by law, and the present military storekeeper, who shall have the rank, pay, and allowances of a major; and the numbers herein prescribed shall not be exceeded.

Mr. Barbour also argued that the provision objected to did not relate exclusively to the fiscal year of 1933, for which the pending bill purported to appropriate, but provided permanent law.

In support of his contention Mr. Barbour cited a decision[4] rendered by Chairman Frederick C. Hicks, of New York, holding that limitations must apply solely to the appropriation under consideration.

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[1] Such restriction, however, does apply to "amounts of money covered by the bill." See section 1525 of this chapter.

[2] First session, Seventy-second Congress, Record, p. 10144.

[3] U.S. Code, title 10, section 482.

[4] Section 1706 of this volume.

The Chairman [1] ruled:

The gentleman from California makes the point of order against part of this paragraph, that it is legislation on an appropriation bill.

The precedent cited by the gentleman from California would seem to the Chair hardly applicable in view of the fact that it had reference solely to a limitation and not to legislation.

The question of whether or not legislation is in order on an appropriation bill has long had bestowed upon it the broadening effect of the Holman rule, a rule which is familiar to all of the membership of this House. This rule provides that on appropriation bills legislation is in order if it has certain well-defined tendencies. For instance, there is this provision—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter for the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States or by the reduction of amounts of money covered by the bill."

Of course, no contention is made that this part of this paragraph is not germane. In the light of existing law, it is clearly a reduction in the number of officers, and therefore in the amounts of money that will be expended by the Federal Government, and on its face does show retrenchment in governmental expenditure.

It has been argued that that part of the paragraph is not in order which sets up an agency and prescribes the method by which the retrenchment shall be effected.

It seems to the Chair that the provision for the establishment of such an agency is but a declaration of the policy that shall be pursued in effecting the retrenchment, and that it is purely ancillary to the general purpose of this paragraph, and should be taken as an incidental matter in connection with the general and main object of the provisions against which the point of order is directed.

One part of this paragraph, which at first gave the Chair most concern, has not been alluded to in the discussion of the point of order.

In a decision made by former Speaker Longworth when he was serving as Chairman of the Committee of the Whole House before his election as Speaker, almost this identical question arose with reference to a proposed reduction of the number of officers, and consequently a corresponding reduction in the amounts of Federal expenditures. This precedent was cited by the gentleman from Missouri, Mr. Cannon, in his remarks, and may be found in Cannon's Precedents, section 1510. In so far as legislation is concerned, with reference to the limitation of the number of officers, clearly, under the Holman rule and under this decision of former Speaker Longworth, such legislation is permitted on an appropriation bill, and under the Holman rule is rather encouraged.

The point of order of the gentleman from California raises the question of whether or not the fact that the stipulation of the date of September 30, 1932, when the provision would become effective, carries the operation of this legislation beyond the period of the fiscal year for which this particular appropriation bill is designed, and would make it such legislation on an appropriation bill as would be permitted under the Holman rule.

In the Holman rule itself no distinction is made between permanent and temporary legislation, because all legislation, unless by its terms temporary, is necessarily permanent until modified or repealed by subsequent legislation; and in looking for a precedent upon which to base a rational conclusion concerning that portion of this paragraph which stipulates that this reduction shall become effective after September 30, 1932, and thereafter be permanent law the Chair has found an illuminating precedent in the second session of the Sixty-fifth Congress.

The Chairman read the excerpt from the decision [2] referred to and continued.

Now, in the light of these decisions, it seems to the Chair that the reduction in the number of officers is no more permanent legislation than that providing for the abolishment of offices. The Chair overrules the point of order.

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[1] Fritz G. Lanham, of Texas, Chairman.

[2] Section 1505 of this work.

1512. On April 18, 1922,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Not to exceed 200 graduates of the Naval Academy of the class of 1922 shall be commissioned as ensigns in the Navy, and the graduates to be commissioned shall be selected by the academic board of the Naval Academy after giving equal consideration to the scholastic standing and adaptability for naval service of each graduate: *Provided,* That each graduate of the Naval Academy of the class of 1922 who is not commissioned as a ensign in the Navy shall be paid mileage at the rate of 5 cents per mile from the Naval Academy to his home and a sum equal to three months' pay of a midshipman, such payments to be made from the respective appropriations in this act providing for the transportation and pay of midshipmen.

Mr. John E. Raker, of California, raised the question of order on the paragraph that it was legislation and did not retrench expenditures.

The Chairman[2] held:

In the bill there is a provision that not to exceed 200 graduates of the Naval Academy of the class of 1922 shall be commissioned as ensigns in the Navy. If this paragraph as a whole were not carried in the appropriation bill there would be graduated from the academy for this year 541, and they would be commissioned as ensigns in the Navy. According to the paragraph but 200 of these will not be commissioned, leaving 341 without commission. Clearly the amendment is germane to the bill, and it is within the Holman rule. It makes a reduction of an amount easy to be determined of the amount of the appropriation carried in the bill. Therefore it is in order and the Chair overrules the point of order.

1513. Language prohibiting an increase in the number of instructors at the Naval Academy was held not to come within the exceptions admitting legislation on appropriation bills.

On February 23, 1933,[3] the Committee of the Whole House on the state of the Union was considering the Navy Department appropriation bill, when the item appropriating for payment of the staff at the Naval Academy was reached.

Mr. Edward W. Goss, of Connecticut, raised the question that the item was not in order in that it included the following proviso:

Provided further, That the number of civilian and officer instructors at the Naval Academy shall not be increased during the fiscal year 1934.

After debate, the Chairman[4] sustained the point of order on the ground that while in certain contingencies the provision might result in a reduction of the number and salaries of officers of the United States, such retrenchment would not necessarily follow as a conclusive and inevitable result of the adoption of the amendment.

1514. A proposition to repeal law authorizing employment of officers was held to effect a reduction of the number and salary of officers of the United States and to be in order on an appropriation bill.

On April 18, 1922,[5] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Philip D.

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[1] Second session Sixty-seventh Congress, Record, p. 5678.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] Second session Seventy-second Congress, Record, p. 4839.

[4] Wall Doxey, of Mississippi, Chairman.

[5] Second session Sixty-seventh Congress, Record, p. 5686.

Swing, of California, called attention to a point of order raised on the previous day on a paragraph providing for the reserve corps.

The Chairman [1] ruled upon the point of order as follows:

The provision against which the point of order is made is as follows:

"The authorization contained in section 2 of the naval appropriation act for the fiscal year 1921 for the employment of 500 reserve officers in the aviation and auxiliary service is hereby repealed."

The provision which is sought to be repealed is as brief as the reference to it. It reads as follows:

"Provided further, That 500 reserve officers are also authorized to be employed in the aviation and auxiliary services."

They are also authorized to be employed in the auxiliary and the aviation services, and the provision of the present act is to repeal that section. It necessarily results, in so far as the matters affected by it are concerned, in a reduction. Therefore the point of order is overruled.

1515. An amendment prohibiting payment of fees to officials under certain contingencies was held to retrench expenditures and to come within the exception to the rule against admission of legislation on appropriation bills.

On March 5, 1892,[2] the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. George W. Fithian, of Illinois, offered this amendment:

Provided further, That no fee shall be paid to any member of an examining board unless personally present and assisting in the examination of applicant.

Mr. William W. Grout, of Vermont, raised a question of order on the amendment.

After debate, the Chairman [3] held the amendment to be in order as a retrenchment of expenditure.

1516. An amendment prohibiting counting of service as cadets at the Naval or Military Academies in computing service records of Army and Naval officers, thereby reducing longevity pay of such officers, was held to reduce the compensation of persons paid out of the Treasury of the United States and to come within the rule.

On March 26, 1924,[4] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Eugene Black, of Texas, offered the following amendment:

Provided, That nothing contained in section 11 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, shall be construed as having repealed, amended, or modified the provision contained in the Army appropriation act approved August 24, 1912 (37 Stat. 594), reading as follows: "That hereafter the service of a cadet who may hereafter be appointed to the United States Military Academy or to the Naval Academy shall not be counted in computing for any purpose the length of service of any officer of the Army."

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[1] Horace M. Towner, of Iowa, Chairman.

[2] First session Fifty-second Congress, Record, p. 1792.

[3] Joseph H. Outhwaite, of Ohio, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 5037.

Mr. Fiorello H. LaGuardia, of New York, made a point of order against the amendment.

The Chairman [1] said:

By the act of August 24, 1912, cadets of the United States Military Academy and of the Naval Academy were not permitted to count, in computing for the purpose of longevity pay, the length of service of such officers in the respective academies. It is contended that by the act approved March 18, 1920, this provision of the act of August 24, 1912, was repealed. The purpose of the amendment is to reenact the provision as contained in the act of August 24, 1912.

It is new legislation, but it necessarily tends to reduce the compensation of persons paid out of the Treasury of the United States, namely, such officers as are entitled to longevity pay and who would be prohibited from adding to the service upon which the longevity pay is based their terms of service in the respective academies at West Point and Annapolis. Therefore the amendment comes clearly within the provision of the Holman rule and is in order. The point of order is overruled.

1517. An amendment prohibiting appointment of new teachers and directing that vacancies in certain grades be filled with teachers from other grades was held to retrench expenditures.

On March 27, 1930,[2] while the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, this paragraph was reached:

Salaries: For personal services of teachers and libraries in accordance with the act approved June 4, 1924, $6,188,840: *Provided,* That teachers employed in kindergartens are hereby made eligible for transfer to teach in grades 1 to 4, inclusive, of the elementary schools.

Mr. Merlin Hull, of Wisconsin, made the point of order that the proviso proposed new legislation.

The point of order being sustained, Mr. Robert G. Simmons, of Nebraska, offered an amendment embodying the proviso in this form:

Provided, That as teacher vacancies occur during the fiscal year 1931 in grades 1 to 4, inclusive, of the elementary schools such vacancies shall not be filled by new appointments but shall be filled by the assignment of teachers now employed in kindergartens, and teachers employed in kindergartens are hereby made eligible to teach in the said grades.

Mr. Hull having against raised the same question of order, the Chairman [3] ruled:

The amendment offered by the gentleman from Nebraska does not attempt to conceal the fact that it is legislation, but it is legislation which comes clearly within the Holman rule. First, it is an amendment to an appropriation bill; second, it is germane to the paragraph under consideration; third, it retrenches expenditures. The purpose of the bill is clear that where a vacancy occurs in the position of teacher in the kindergarten the teacher may be promoted to that grade instead of appointing a new teacher. The amendment as drawn is a perfect example of legislation on an appropriation bill within the Holman rule.

1518. An amendment reducing the proportion of the fund appropriated from the Federal Treasury for the government of the District of Columbia from one-half to one-fourth was held to be in order as a reduction or retrenchment of expenditure.

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] Second session Seventy-first Congress, Record, p. 6183.

[3] Fiorello H. LaGuardia, of New York, Chairman.

On March 3, 1892,[1] the District of Columbia appropriation bill was ordered to be engrossed and was read a third time, when Mr. David B. Henderson, of Iowa, offered a motion to recommit the bill to the Committee on Appropriations with instructions.

As an amendment to the motion, Mr. David A. De Armond, of Missouri, proposed instructions reducing the proportion of the District expenses to be paid out of the Federal Treasury from one-half to one-fourth.

Mr. Nelson Dingley, jr., of Maine, raised a question of order on the amendment.

The Speaker[2] said:

The Chair is of the opinion that it is not competent to do by indirection that which could not be directly done; that it is not competent for the House to direct the committee to do something which the committee itself could not do by reason of a rule restricting it from such action. Therefore, the question for the Chair to determine is, whether this amendment would be in order in Committee of the Whole. Concededly it changes existing law. It is in order, then, if it reduces expenditures, and is not in order if it does not. This bill, a copy of which is before the Chair, provides—

"That the half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia."

So there seems to be an amount of money in the Treasury recognized as the "revenues of the District of Columbia," distinct from money in the Treasury from general sources; and this proposition, as the Chair understands, is to reduce the amount appropriated from the general fund, that raised for general purposes. Therefore, the Chair thinks the amendment reduces expenditures, and is in order.

1519. An amendment reducing the proportional part contributed by the Government to the expenses of the government of the District of Columbia paid jointly from District revenues and the Federal Treasury was held to reduce the amount paid out of the Treasury and to be in order on an appropriation bill.

On December 10, 1914,[3] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

Be it enacted, etc., That one half of the following sums, respectively, is appropriated, out of any money in the Treasury not otherwise appropriated, and the other half, out of the revenues of the District of Columbia, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1916, namely:

Mr. Ben Johnson, of Kentucky, proposed an amendment as follows:

Amend, by striking out the words "one half of" and the words "out of the money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia," and the word "namely," and insert the following as an amendment thereto: That all moneys appropriated for the expenses of the government of the District of Columbia shall be paid out of the revenues of said District to the extent that they are available, and the balance shall be paid out of money in the Treasury of the United States not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, and all laws in conflict herewith are hereby repealed."

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[1] First session Fifty-second Congress, Record, p. 1698.

[2] Charles F. Crisp, of Georgia, Speaker.

[3] Third session Sixty-third Congress, Record, p. 122.

Mr. James R. Mann, of Illinois, made the point of order that the amendment changed existing law and was not germane.

After extended debate, the Chairman [1] overruled the point of order.

1520. On May 1, 1918,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

Be it enacted, etc., That one half of the following sums, respectively, is appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1919, namely:

Mr. Warren Gard, of Ohio, offered this amendment:

Strike out all the words beginning with the word "that," down to the words "District of Columbia" and insert in lieu thereof the following:

"The following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor, and the remainder out of any money in the Treasury not otherwise appropriated; but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses for the government of the District of Columbia for the fiscal year ending June 30, 1919, except amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of the money in the Treasury not otherwise appropriated and the other half out of the revenues of the District of Columbia."

Mr. Thomas U. Sisson, of Mississippi, having raised a question of order on the amendment, Mr. Gard referred to a decision on a similar amendment offered to the District of Columbia appropriation bill in the Sixty-third Congress.

The Chairman [3] said:

The Chair has a recollection about that amendment, and if his memory serves him correctly it was very elaborately argued at that time, and the precedents were looked up, after which the point of order was overruled. Following that precedent, the Chair overrules the point of order.

1521. On June 4, 1919,[4] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was read:

Be it enacted, etc., That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor and the remainder out of any money in the Treasury not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, except amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of any money in the Treasury not otherwise appropriated and the other half out of the revenues of the District of Columbia, namely.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the paragraph changed existing law and was not in order on an appropriation bill.

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[1] John N. Garner, of Texas, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 5912.

[3] John N. Garner, of Texas, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 657.

The Chairman [1] ruled:

The gentleman's statement, as the Chair understands it, is borne out clearly by a long line of rulings. The organic act of June 11, 1878, provides that, to the extent to which Congress shall approve of said estimates, Congress shall appropriate the amount of 50 per cent thereof and the remaining 50 per cent of such approved estimates shall be levied and assessed upon the taxable property and privileges in the said District other than the property of the United States and the District of Columbia.

The language of the bill provides—

"That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor, and the remainder out of any money in the Treasury not otherwise appropriated."

It is, of course, clear that this is a change of existing or basic law. It would be within the rule which does not allow legislation upon appropriation bills if it were not within one of the exceptions of such rule. The exception of the rule, called to the attention of the Chair by the gentleman from Georgia, Mr. Crisp, is the exception that provides that if by the amendment offered or the change in the law the appropriations are reduced, the exception prevails and the rule to that extent is nullified.

In this case it is quite clear that if the language of the bill remains a reduction of expenditures from the Treasury of the United States must necessarily result. The very point has been decided in two recent cases exactly in point except the positions were reversed. The gentleman from Texas, Mr. Garner, I think, was in the chair when the bill as presented contained the provision exactly in accordance with the organic act:

"That one-half of the following sums, respectively, be appropriated out of any money in the Treasury."

And in two successive years the gentleman from Texas, Mr. Garner, held, after an elaborate argument in the first instance, that the language of an amendment offered as a substitute, almost, if not exactly, identical with the language which is now the first section of this bill, was in order as an amendment to the original law, because of the fact that it reduced expenditures.

So it seems to the Chair it is quite clear that it is the duty of the Chair to hold that the point of order against the first section on that account is not well taken, and the objections are overruled.

1522. On March 27, 1920,[2] the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Charles R. Davis, of Minnesota, offered this amendment:

That the following sums are appropriated out of the revenues of the District of Columbia to the extent that they are sufficient therefor and the remainder out of any money in the Treasury not otherwise appropriated, but the amount to be paid from the Treasury of the United States shall in no event be as much as one-half of said expenses, in full for the following expenses of the government of the District of Columbia for the fiscal year ending June 30, 1921, except the amounts to pay the interest and sinking fund on the funded debt of said District, of which amounts one half is appropriated out of any money in the Treasury not otherwise appropriated and the other half of the revenues of the District of Columbia, namely.

Mr. James R. Mann, of Illinois, reserved a point of order on the amendment.

After debate, the point of order was withdrawn and the amendment was agreed to.

1523. To a provision for the purchase of airplanes for use of the Post Office Department an amendment providing for their transfer from the War Department, while conceded to be legislation, was held to be germane

[1] Horace M. Towner, of Iowa, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 4926.

and to reduce the amount of money covered by the bill and therefore to be in order on an appropriation bill under the rule.

On December 17, 1918,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

And provided further, That the Secretary of War is hereby directed to deliver immediately to the Postmaster General 100 De Haviland 4 airplanes, 100 Handley-Pages, 10 Glen Martin day bombers, all planes completely assembled, and with the necessary spare parts. Also 100 extra Liberty engines with spare parts, 50 Hispano-Suiza engines of 300-horsepower motors, and 20 Hispano-Suiza engines with 150-horsepower motors. The same to be out of any equipment that the War Department has on hand or under construction. The War Department appropriation to be credited with the equipment turned over to the Post Office Department.

Mr. Finis J. Garrett, of Tennessee, proposed the following amendment:

Strike out the paragraph and insert:

"For inland transportation by railroad routes and airplanes, $59,825,000: *Provided,* That not to exceed $1,000,000 be expended for payment of freight and incidental charges for the transportation of mails conveyed under special arrangements in freight trains or otherwise: *Provided further,* That out of this appropriation the Postmaster General is authorized to expend not exceeding $500,000 for the purchase of airplanes and the operation and maintenance of airplane service between such places as may be determined: *Provided further,* That the Secretary of War is hereby directed to deliver immediately to the Postmaster General 100 De Haviland 4 airplanes, 100 Handley-Pages, 10 Glen Martin day bombers, all planes completely assembled and with the necessary spare parts; also 100 extra Liberty engines with spare parts, 50 Hispano-Suiza engines with 300-horsepower motors and 20 Hispano-Suiza engines with 150-horsepower motors, the same to be out of any equipment that the War Department has on hand or under construction, the War Department appropriation to be credited with the equipment to be turned over to the Post Office Department: *And provided further,* That separate accounts be kept of the amount expended for airplane service."

Mr. William R. Green, of Iowa, made a point of order against that portion of the amendment providing for the transfer of property from the War Department to the Post Office Department.

The Chairman[2] held:

The gentleman from Tennessee offered a substitute for the amendment of the gentleman from Pennsylvania, but for the purpose of this decision the Chair can state that the amendment is a substitute for the language in the appropriation bill, and the effect of the amendment is to reduce the amount appropriated in the bill from $61,825,000 to $55,825,000, and it provides, in lieu of making an appropriation of $2,185,000 available for the purchase, maintenance, and the operation of airplanes in the management of the inland postal service of the United States, that the Secretary of War shall turn over to the Post Office Department certain airplanes owned by the Government, to be used in that service, and so forth. Now, the question presents itself to the Chair under the point of order made whether this amendment is germane and if it is legislation on an appropriation bill, whether it is in order under the rules of the House. Clause 2 of Rule XXI of the House provides:

"Nor shall any provision in any such bill or amendment"—

Referring to general appropriation bills—

"thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States"—

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[1] Third session Sixty-fifth Congress, Record, p. 596.

[2] Charles R. Crisp, of Georgia, Chairman.

Of course, the amendment does not do that—

"by the reduction of the compensation of any person paid out of the Treasury of the United States"—

The amendment does not do that—

"or by the reduction of amounts of money covered by the bill."

The amendment here reduces the amount covered by the bill by over a million dollars. Then the question presents itself to the Chair to determine whether the amendment is germane and whether the legislation proposed in the amendment is germane and logically follows the reduction of the amount covered in the bill.

Now, the Chair has the greatest respect for the decision of the able gentleman who ruled a few moments ago on this amendment without the amount in the bill being reduced, and the Chair heard that decision and the Chair understood the point of order to be sustained because the amendmentment legislated, and legislation is not in order on an appropriation bill except in special cases. The present occupant of the chair is forced to conclude that the subject we are dealing with is airplanes for the use of Government in the Postal Service, and that an amendment proposing airplanes owned by the Government under the control of another branch be turned over to the Postal Department is germane. And while it is legislation, in the opinion of the Chair it is germane to the provision of the bill we are discussing; by the amendment the amount appropriated in the bill is reduced, and the reduction naturally follows the legislation proposed; and, therefore, under the Holman rule, the Chair overrules the point of order.

1524. Amendments nominally reducing appropriations while providing for sale of tractors owned by the War Department, and for their distribution to the States, were respectively held to retrench expenditures by reduction of the amount of money covered by the bill and therefore to be in order under the rule.

On February 17, 1921,[1] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read as follows:

For alternation and maintenance of the mobile artillery, including the purchase and manufacture of machinery, tools, and materials necessary for the work and the expenses of the mechanics engaged thereon, $600,000: *Provided,* That the Secretary of War is authorized and directed to sell as soon as possible after the approval of this act, upon such terms and under such conditions as he deem most advantageous to the best interests of the Government, 2,000 of the tractors owned by the War Department.

A point of order raised by Mr. Warren Gard, of Ohio, against the proviso in the paragraph was sustained by the Chairman, and Mr. James R. Mann, of Illinois, offered this amendment:

Strike out "$600,000" and insert in lieu thereof "$590,000" and the following: *"Provided,* That the Secretary of war is authorized and directed to sell, as soon as possible after the approval of this act, upon such terms and under such conditions as he may deem most advantageous to the best interests of the Government, 2,000 of the tractors owned by the War Department."

Mr. Gard raised the question of order on the amendment and said:

Mr. Chairman, the rule which the gentleman has invoked in a very strained sense, and I say that with the utmost respect, is the application of the so-called Holman rule in respect to a reduction of expenditures. In so far as the reduction of the amount is concerned I concede that the rule is properly invoked, but there is a twofold purpose in the amendment. One purpose is to reduce the amount from $600,000 to $590,000, and that is a completed thing. Apart from that there follows a proviso in the gentleman's amendment which is entirely separate and distinct from

[1] Third session Sixty-sixth Congress, Record, p. 3343.

the first part of the amendment, just as much so as is the original proviso separate and distinct from the language contained in the bill.

In other words, it is an effort on the part of the gentleman from Illinois to obtain action upon that which the Chair has previously ruled out of order by reason of its being legislation upon an appropriation bill and new legislation upon an appropriation bill, which has been held to be out of order times without number in the different ruling which have been invoked ever since these appropriation bills have been considered in the House. Therefore I call to the attention of the Chairman again that my own idea about it is this: That there being two particular parts to this amendment proposed by the gentleman from Illinois, the one being good and the other with relation to a proviso, and the proviso being in no way connected with the first part, not being germane even to that for the purchase and manufacture of machinery, tools, and materials necessary for the work and the expenses of the mechanics engaged thereon—the language of the proviso is not that there shall be purchased, that there shall be alternations and maintenance, but that there should be sold as soon as possible by the Secretary of War 2,000 of these tractors upon such terms as he may deem advisable, so that to my mind it is not alone not germane to that which has gone before, but it is clearly unassociated with the application of the reduction of $10,000 which is, of course, offered for the purpose of evasion—and the reintroduction of the amendment can be for no other purpose—and to my mind the entire amendment is offered for the purpose of securing in an evasive way under the cloak of parliamentary law that which the Chair a moment ago has ruled out.

To this argument Mr. Mann replied:

Mr. Chairman, the gentleman from Ohio said this was an evasion of the rule. Why, this is a compliance with the rule. The gentleman invokes a technical rule of the House which prohibits legislation upon an appropriation bill. That rule was applicable to the provision which was brought into the House in the bill, but the very rule which the gentleman invokes provides that legislation shall be in order when accompanied by a reduction of the amount of money covered by the bill. That is an absolute compliance with the rule. The rule, of course, is technical. I have complied with the technical provisions of the rule and with the spirit of the rule. The gentleman from Virginia, Mr. Slemp, stated that this provision of the bill carried an item of appropriation for the alteration and maintenance of those tractors, so that any provision relating to those tractors is germane to the provisions of the bill. Now, the amendment which I have offered proposes to reduce the amount of the bill, and thereby be able to dispose of some of the tractors. Of course, it is legislation, but it is legislation authorized by the language of the rule, and I think clearly authorized by the decisions. Shortly after this rule was adopted in the House 10 years ago on the Post Office appropriation bill I offered an amendment making a slight reduction in the amount in one item of the bill and providing that mail stations and post offices should not be opened on Sundays for the delivery of mail. A point of order was made. I read the rule. I had complied with the rule, and the two cases are identical and are on all fours. The point of order was overruled in that case, and it has been the law ever since, because it was enacted into law. Of course, offered without the provision made by the rule it would have been subject to a point of order; offered under the terms of the rule it was not subject to a point of order.

The Chairman [1] ruled:

Legislation to be in order under the Holman rule must be directly instrumental in a reduction of expenditures. This identical question was raised on an appropriation bill. On January 25 of this year the gentleman from New York, Mr. Hicks, in the chair, an amendment was offered and sustained making a reduction, as follows:

"Amendment offered by Mr. Anderson to the original Anderson amendment: Strike out '$208,500' and insert '$150,000,' and add the following: *'Provided,* That at any time during the fiscal year 1922 or thereafter, then the Secretary of Agriculture shall determine that the interests of the Government will be subserved thereby, he is hereby authorized to appraise the buildings, machinery, marine equipment, kelp harvesters, boats, leasehold or contract rights, and all other

[1] Cassius C. Dowell, of Iowa, Chairman.

property of whatever nature or kind appertaining to the experimental kelp potash plant of the Department of Agriculture situated at Summerland, Calif., and to sell the same at public or private sale.'"

And so forth.

It appears to the Chair that the amendment just read raises identically the same question involved in this amendment, and the Chair overrules the point of order.

Thereupon Mr. Sydney Anderson, of Minnesota, offered an amendment to the amendment as follows:

Amendment by Mr. Anderson to the amendment offered by Mr. Mann, of Illinois: At the end of the Mann amendment insert: "*Provided further,* That the Secretary of War is hereby authorized and directed to transfer and deliver to the Secretary of Agriculture for distribution among the highway departments of the several States for use on roads constructed in whole or in part by Federal aid 1,250 tractors owned by the War Department."

A point of order being made against the amendment to the amendment by Mr. James W. Good, of Iowa, the Chairman said:

This amendment, it occurs to the Chair, is clearly legislation. The amendment of the gentleman from Illinois was an amendment which did in fact reduce the expenditure and came within the Holman rule. The Chair sustains the point of order.

Mr. Anderson then proposed the following amendment to the amendment:

Amendment by Mr. Anderson to the amendment offered by Mr. Mann, of Illinois: Strike out "$590,000" in the Mann amendment and insert in lieu thereof "$580,000" and add the following:

"Provided further, That the Secretary of War is hereby authorized and directed to transfer and deliver to the Secretary of Agriculture for distribution among the highway departments of the several States, for use on roads constructed in whole or in part by Federal aid, 1,250 tractors owned by the War Department."

A point of order presented by Mr. Good, against the amendment in its modified form was overruled by the Chairman on the ground that it provided a reduction in the amount covered by the bill and therefore came within the rule.

1525. Discussion as to distinction between application of the Holman rule and a simple limitation.

To bring an amendment within the rule, "reductions of amounts of money" must apply to amounts covered by the bill.

On January 27, 1922,[1] the independent offices appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read a paragraph providing an appropriation of $350,000 for expenses of the Shipping Board.

Mr. Frederick W. Dallinger, of Massachusetts, offered the following amendment to be inserted as a new paragraph:

No part of the moneys appropriated in each or any section of this act, or which is now available for the use of any independent executive bureau, board, or commission under existing law, shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning, can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise.

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[1] Second session Sixty-seventh Congress, Record, p. 1820.

Mr. William R. Wood, of Indiana, having made a point of order against the amendment, Mr. Dallinger contended that it provided for a reduction of expenditures and was in order under the Holman rule.

The Chairman [1] held:

The gentleman from Indiana makes the point of order against the amendment offered by the gentleman from Massachusetts, although in the nature of a limitation and restriction upon the expenditure of money appropriated or provided for in the pending bill, the language "or which is now available for use of any independent executive, bureau, board, or commission under existing law," applies to legislation heretofore enacted. The Chair would state that the rule the gentleman from Massachusetts relies upon, in the judgment of the Chair, does not apply or permit a limitation or restriction of the character of the gentleman's amendment upon moneys heretofore appropriated for or provided in previous legislation. The Chair sustains the point of order.

Mr. Dallinger then proposed the amendment in the following form:

No part of the moneys appropriated or made available by this act shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise.

In debating a point of order made against the amendment by Mr. Wood Mr. James R. Mann, of Illinois said:

Mr. Chairman, the gentleman made a very able argument upon the theory that this amendment is offered under the so-called Holman rule.

I do not so understand it. The Holman rule, which is a part of paragraph 2, Rule XXI, is only a provision which affects legislation proposed on an appropriation bill.

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order"—

Unless so and so.

The right of Congress to make an appropriation and the right to refuse an appropriation is quite evident. There is no power in the Government which can compel them to make an appropriation; and, having the right to refuse an appropriation, it has always been held that you can make an appropriation with the limitation as to its expenditure. We could make an appropriation to the Shipping Board with the provision that no part of it could be paid to any but red-headed men, if we chose to do so. A man would lose his job if his hair turned gray. We can make an appropriation with any limitation which is not an affirmative change of law. As I heard this amendment read, it is a pure limitation, it seems to me, on the appropriation, which can not be expended in a certain way. We could put a limitation in which would require double the amount of expense, and we sometimes do. As a limitation it does not come within the Holman rule. If it comes within the Holman rule, the face of the amendment speaks for itself. It says it can not be expended unless it would cost more than it would in a navy yard. Whether it will cost more may be a matter of speculation, but on the face of the amendment it must cost less in the navy yard.

The Chairman ruled:

The gentleman from Massachusetts offers an amendment which he stated was offered as an imitation, which read as follows:

"No part of the moneys appropriated or made available by this act shall be used or expended for the purchase, acquirement, repair, or reconditioning of any vessel, commodity, article, or thing which, at the time of the proposed purchase, acquirement, repair, or reconditioning,

[1] Joseph Walsh, of Massachusetts, Chairman.

can be manufactured, produced, repaired, or reconditioned in each or any of the Government navy yards or arsenals of the United States for a sum less than it can be purchased, acquired, repaired, or reconditioned otherwise."

That is offered to a paragraph, beginning in line 6 and ending in line 19, but it applies to the appropriation made available in the pending bill. It raised a question of fact to be determined by those who make the expenditure at the time of the proposed expenditure for the purchase of a vessel, the acquirement of a vessel, the repair of a vessel, or for the reconditioning of a vessel, or at the time of the purchase of a commodity or other thing, namely, whether, as the amendment states, at the time of the purchase, acquirement, and so forth, the same can be manufactured, produced, repaired, or reconditioned at Government navy yards or arsenals for a less sum. As the gentleman from Illinois, Mr. Mann, well stated, the power of making appropriations rests with Congress, and it is within the power of Congress, in making an appropriation, to make such limitations there as are within the rules of the House.

In the judgment of the Chair this does not repeal or modify section 12 of the shipping act, which was brought to the attention of the Chair by the gentleman from Virginia and the gentleman from Indiana. That is still the law, but with reference to appropriations in this act they can not be used, nor can any funds made available by this act be used for these purposes if the expenditure for the same purpose would be less if made in or paid to a Government navy yard or arsenal.

Now, the precedents in Hinds' are numerous, and there are several which hold limitations somewhat similar to this as being not in order. But in many instances where the precedents in Hinds' are adverse to this amendment being within the rule, the amendments have imposed additional duties upon certain Government officials or departments, and have required them to perform functions which are not specifically laid down in the law. In the opinion of the Chair this matter raises a question of fact relative to a proposed expenditure to be determined by the authority making the expenditure, and this can be determined without imposing additional duties or in any way amending the law creating the organization which is to have charge of the expenditure. In the opinion of the Chair this amendment, as proposed by the gentleman from Massachusetts is such a limitation as comes within the rules of the House, and many similar amendments have heretofore been permitted under many precedents in Hinds', and therefore the Chair overrules the point of order.

1526. An amendment proposing legislation is in order on an appropriation bill if it provides for a reduction in the amount of money covered by the bill.

On January 19, 1924,[1] the Interior Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. To a paragraph appropriating a lump sum of $279,640 for salaries of personnel in the office of the Secretary of the Interior, Mr. Sid C. Roach, of Missouri, offered this amendment:

Strike out the figures "$279,640" and insert in lieu thereof the figures and words following: "$222,022, no portion of said amount to be used in paying to any person employed in the Department of the Interior a higher rate of salary than was paid for the same character of service rendered by such person during the last preceding fiscal year."

Mr. Thomas L. Blanton, of Texas, made a point of order on the amendment and argued:

It does not come within the Holman rule for the one and good reason that it does not show on its face that it will reduce any salary. To come within the House rule that must be clearly apparent on the face of the amendment. In deciding a question within or without the

[1] First session Sixty-eighth Congress, Record, p. 1172.

Holman rule the Chairman does not have the right to go to the hearings, he does not have to examine the reclassification act, but it must be apparent to him clearly, from a reading of the amendment, that on its face it is a retrenchment in expenditures, and nowhere is it shown in the gentleman's amendment that it retrenches a single salary, but it might create a dozen deficiencies.

The Chairman [1] ruled:

It seems clear to the Chair that if the Roach amendment were adopted, expenditures from the Treasury would be retrenched, and this is shown on the face of the bill by a reduction that could be made in the amount carried in the bill itself. It therefore complies with the basic requirement of the Holman rule that it shall retrench expenditures. The retrenchment may be effected in one of three ways: First, by the reduction of the number and salary of officers of the United States; second, by the reduction of the compensation of any person paid out of the Treasury of the United States; or third, by the reduction of amounts of money covered by the bill. The amendment of the gentleman from Missouri may accomplish all of these things, although it is difficult or impossible for the Chair to determine as to the first and second ways; but under the third clause of the rule there would seem to be no doubt, for the proposed amendment materially reduces the amount covered by the bill. The Chair therefore overrules the point of order.

1527. A retrenchment of expenditure relied upon to bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill must be apparent from its terms and a retrenchment conjectural or speculative in its application, or requiring further legislation to effectuate, is not admissible.

The Chairman of the Committee of the Whole having taken an active part in the discussion of a point of order, the question was by unanimous consent passed over to be later raised in the House.

On April 27, 1876,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

That the management of all Indian affairs, and of all matters arising out of Indian relations be, and the same is hereby, transferred from the Department of the Interior to the War Department, and the same is hereby placed under the Secretary of War agreeably to such regulations as the President may prescribe: *And provided further,* That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War: *And provided further,* That the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army.

A question of order on the paragraph being raised by Mr. Julius H. Seelye, of Massachusetts, Mr. James A. Garfield, of Ohio, submitted this request:

I wish to make a suggestion which may avoid the discussion of the point of order at this time. The present occupant of the Chair is known to have taken an active part in the discussion of this bill, and it will be somewhat embarrassing for him to decide the question. I suggest therefore, by unanimous consent, that an agreement be entered into, the point of order shall be allowed to be raised to this section in the House, and that it be passed over at this time in the committee to be raised hereafter in the House. It will relieve the present occupant of the Chair of embarrassment and at the same time cause no delay to the bill.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session, Forty-fourth Congress, Record, p. 2811.

There being no objection, the request was agreed to and the question was raised and debated at length in the House on the following day when the Speaker [1] rendered this decision: [2]

The Chair desires to say that he has been more than willing to hear this somewhat lengthy discussion upon the point of order raised upon the fourth section of the pending bill, because that point is novel and intrinsically of very great importance to the House and to the country.

In the first place, to what considerations, in the making of a ruling, has the Chair a right to look? Can he go outside of this bill and inquire generally, as it is the right and duty of a Member upon the floor of this House to do, what will be the effect of this fourth section; or is it his duty to limit his inquiries to the face of the bill, to the specific terms of the section in question, the law of the land so far applicable, and the parliamentary rules and practices of this House? In the judgment of the Chair, the range of his investigation is the latter, and he can not properly go beyond these three considerations. The language of the amended rule is:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures."

Much has been said on the question whether this fourth section is germane to the subject matter of this bill. The subject matter of the bill is indicated in its title, "A bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes." The purpose of the bill, further, is to regulate the salaries of officers, and in some cases to retrench expenditures by the abolition of officers and necessarily of their salaries. In other words, in the judgment of the Chair, the subject matter of this bill is so comprehensive that it can not be said that a provision proposing in specific terms the abolition of numerous officers is not germane to a bill which regulates many offices and fixes the salaries thereto attached and abolishes other offices and their salaries. The Chair has to say, therefore, in conclusion on this point, that he is not embarrassed by the question whether or not this section is germane to the subject matter of this bill.

The embarrassment of the Chair arises out of the latter portion of the amended rule, "shall retrench expenditures." Does this section retrench expenditures? To answer that inquiry the Chair can only look at the section itself, to the existing law, and to the rules of parliamentary practice and proceedings in this House. The Chair sees that in this bill there is no provision for the practical management of this Bureau of Indian Affairs, if it shall be transferred as proposed by this section; there is no appropriation for that purpose, no regulation of and no indication how the duties of that bureau after it is transferred shall be performed or by whom those duties shall be performed, other than in the somewhat general language of the section itself. It is true the section provides—

"That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War; and that the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army."

It is entirely apparent upon the face of this section that the section itself contemplates, distinctly and unequivocally, further and additional and important legislation on this same subject, in order to effectuate the intention of the House as evidenced in this provision. In other words, the section in itself, if enacted, will, of necessity, be incomplete; it will not accomplish the purposes intended by its movers and friends without the aid of additional legislation. It can not be said, therefore, that, if enacted, it will be such an amendment as "shall retrench expenditures" as the mere result of its own enactment in this bill, unaided by future essential and appropriate legislation.

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[1] Michael C. Kerr, of Indiana, Speaker.

[2] See section 3885 of Hinds' Precedents.

The inquiry then recurs, Is this amendment such a one as by its own force and the other provisions of this bill retrenches expenditures? Does that appear? The Chair might answer that to abolish an office is the retrenchment of expenditure; and if such abolition were begun and perfected by this bill the Chair would have no hesitation in holding that such an abolition did accomplish a retrenchment of expenditure; there would then be no doubt on the point. The Chair might also hold that, because it requires the duties now intrusted to Indian agents to be hereafter performed by soldiers, it is the intention of the framers of the provision to require those duties to be performed by those persons without additional compensation. But that does not appear; that is not a perfected result that can follow the enactment of this section into law. Nothing of that kind can result except by the aid of further and additional legislation.

The Chair must take official notice of the fact that in this bill no appropriation is made for the Army or for the performance of any of its duties in any of its several bureaus or departments; and the Chair must further officially know that in the ordinary course of legislative proceedings such an appropriation bill must be introduced and enacted before the session expires as of necessity will embrace the further and more complete regulation of this entire subject. Now, the Chair can not look forward into that legislation and say, upon anything that appears on the face of this section, that such legislation will in all respects coincide with, sustain, or affirm the provisions of this section and carry out the proposed retrenchment indicated in it. In other words, the Chair desires it to be distinctly understood that the point upon which his decision in this case turns is that from the face of the section it does not appear that the provision comes within the requirement of this rule, which is that it shall be germane to the subject matter of the bill and "shall retrench expenditures." It does not affirmatively appear upon the face of the bill or the laws of the land or the usual and customary mode of proceeding of this body that this section, if enacted in this bill, will retrench expenditures.

In the judgment of the Chair, this rule should have liberal construction in the interests of retrenchment. The purpose of the rule is most beneficent and proper, and the Chair under any circumstances not attended with extreme doubt would hold it to be his duty to enforce the rule.

The Chair would be further disposed, acting upon a principle of law, to assume prima facie that the judgment of the House in its construction of this rule should be adopted by the Chair where that judgment had been reached after discussion and consideration. But here there is such a novel presentation of the proposition to retrench, having relation to matters to be done in the future, being in itself essentially incomplete, that the Chair does not feel at liberty to decide that the section is in order; and he therefore sustains the point of order.

1528. On June 6, 1876,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

A point of order made by Mr. George W. McCrary, of Iowa, was pending on section 2 of the bill transferring the Indian Bureau to the War Department.

The Chairman[2] ruled:

Then the Chair will first decide the pending point of order upon the second section of the bill.

At the sitting of the committee for the consideration of this bill on Saturday last a point of order was raised on section 2 of the original bill, which section transfers the management and control of Indian affairs from the Interior to the War Department. The point of order was stated by the gentleman raising it to be this: That the section proposes new legislation, and that it does not appear on the face of the record that it will retrench expenditures. The decision of the Chair upon this question of order was reserved until the committee should again resume the consideration of the bill. The Chair will now submit his decision.

Since the amendment to rule 120 of this House, which was adopted January 17 of this session, there has been considerable discussion as to its interpretation and several rulings have been

[1] First session Forty-fourth Congress, Record, p. 3620.

[2] William M. Springer, of Illinois, Chairman.

made upon it. In view of the exhaustive arguments which have been made upon the rule as amended, and the important ruling thereon by the honorable Speaker of the House on the 28th of April, the Chair could hardly err in the decision of the point of order now raised. The rule has been so often quoted that it is scarcely necessary to again read it, as it is doubtless familiar to every Member. But as this question is in many respects similar to that decided by the Speaker on the 28th of April, the Chair has given the subject most serious consideration, and therefore asks the indulgence of the committee in again reading the rule:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures."

This rule has for its object the exclusion from appropriation bills of subjects of general legislation. No provision reported in such bill or amendment thereto which changes existing law is in order, except it be germane to the subject matter of the bill and retrenches expenditures.

Whether a particular provision be germane to the subject matter or not is a question which will generally admit of little doubt, and in this case it seems to be admitted that the section under consideration does not contravene the rule; for this bill related exclusively to Indian affairs, and the section under consideration, taken in connection with the other provisions thereof, completely disposes of the whole subject. The section is in harmony with the other provisions of the bill, and, considered as a whole, a system of Indian control and management is provided, taken in connection with existing laws and treaties, which is complete in itself, effective in its operation, and not dependent upon other or further legislation. The section is therefore undoubtedly germane to the subject matter of the bill.

But how shall the Chair determine whether a particular provision of a bill or a proposed amendment thereto does retrench expenditures? Two rules for the determination of this question have been suggested: First, that the Chair may hear arguments, consider estimates, compare official reports, and from all these give his opinion as to whether the provision in the bill or the proposed amendment does or does not retrench expenditures. If this rule were the correct one the Chair would have no other guide than the weight of the arguments pro and con and his own conjectures upon the probabilities of the issue. Such a rule of interpretation is foreign to the province of the Chair, and if assumed would be trenching upon the privileges of the committee and the House.

The other rule for the determination of this question is this: That the Chair will not resort to evidence "aliunde" or to speculation or argument, but will limit his inquiries to the face of the bill, to the specific terms of the section in question, the law of the land, and the parliamentary rules and practices of this House. This construction of the rule is that laid down by the honorable Speaker of this House, and is in perfect accord with the views of the present occupant of the chair. In deciding a question of this kind of the Chair sits as a court upon the hearing of a motion to quash an indictment, and not as a jury to weigh evidence and determine issues of fact. And the Chair, in deciding questions of order such as that raised upon the section under consideration, will consider such facts only as a court would take official cognizance of in construing a statute.

Does this section, then, upon which the question of order has been raised, by its own force and the other provisions of this bill retrench expenditures? The section is as follows, and it has evidently been drawn with great care by the committee:

"SEC. 2. That the office of the Commissioner of Indian Affairs is hereby abolished, and the salary heretofore paid to such officer shall cease, and the offices of superintendents of Indian affairs, clerks to the same, of agents and special agents, interpreters, inspectors, and all other employees of the Indian Bureau are hereby abolished; and the salary heretofore paid to such officers respectively shall cease; and the duties now intrusted to and performed by said officers of every kind and description shall be performed by officers, soldiers, and employees of the Army under the direction of the Secretary of War; and they shall receive no additional pay by reason of the performance of the duties aforenamed thus transferred to them, other than the pay they may receive as officers and employees of the Army; and the Secretary of War shall assign them their

duties in connection with the supervision, control, and management of Indian affairs under such regulations as the President may prescribe: *Provided*, That the execution of all laws and parts of laws applicable to the management and control of Indian affairs and of matters arising out of Indian relations is hereby transferred to and placed under the control of the Secretary of War, who is hereby empowered to and shall exercise the same authority in the control of all Indian affairs heretofore had by the Secretary of the Interior, and all laws and parts of laws in conflict with the provisions of this act are hereby repealed."

If this section were in the words of section 4 of the legislative, executive, and judicial appropriation bill, which section the Speaker ruled out of that bill, that Chair would have but one course to pursue, and his decision would be simply a reaffirmation of that of the Speaker. But there is a material difference in the sections. The objectionable section of the legislative, executive, and judicial appropriation bill is as follows:

"SEC. 4. That the management of all Indian affairs, and of all matters arising out of Indian relations, be, and the same are hereby, transferred from the Department of the Interior to the War Department, and the same are hereby placed under the Secretary of War agreeably to such regulations as the President may prescribe: *And provided further*, That the Office of Commissioner of Indian Affairs is hereby abolished, and the execution of all laws and parts of laws applicable to the management of Indian affairs and of matters arising out of Indian relations is hereby lodged with the Secretary of War: *And provided further*, That the duties now being intrusted to and performed by Indian agents and other officials and employees of every kind and description will be performed by officers, soldiers, and employees of the Army."

The Speaker, in his ruling upon this section, held that upon its face it was incomplete, and that it contemplated distinctly and unequivocally further and additional legislation in order to effectuate the intention of the House as evinced therein. And, for this reason, it did not appear that by its own enactment there would be a retrenchment of expenditures. The Speaker held that it was impossible for the Chair to look into the future and determine whether the future necessary legislation would, in all respects, sustain the provisions of the section and carry out the proposed retrenchment indicated in it.

Futhermore, the Speaker held, in deciding the point of order raised on section 4, that the abolition of an office is the retrenchment of expenditure, and that, if such abolition had been begun and perfected by that bill, he would have had no hesitation in holding that such an abolition did accomplish a retrenchment of expenditures. But section 4 did not provide, as does section 2 of the bill under consideration, that the duties imposed upon Army officers and soldiers should be performed by them without additional compensation.

On account of these uncertainties and the incomplete legislation proposed in section 4 of the legislative bill, the Speaker held that it did not appear that the provision came within the requirement of the rule.

But is the section under consideration subject to the objections urged against section 4 of the legislative bill? This section proposed distinct, clearly defined, and perfect legislation. If enacted into law it will transfer the whole management of Indian affairs from the Interior Department to the War Department without the necessity of any further legislation whatever. It is true that some regulations are to be prescribed by the President and others by the Secretary of War; but the prescribing of such regulations is not legislation, but mere matter of detail, the regulation of which is conferred in similar cases upon all the heads of departments. But the section goes further and absolutely abolishes a large number of offices and discontinues the salaries thereof; and it provides that the officers, soldiers, and employees of the Army shall perform the duties of the persons heretofore filling such offices, without additional compensation.

Here, then, is manifestly and, by the very terms of the provision itself, in the light of existing law, a large reduction of expenditures. The Chair will take official cognizance of the fact that the law as it exists appropriates for the current year, for the salaries and expenses of the officers and agents, whose offices and positions are abolished by this section, over $200,000; and that this bill appropriates in the aggregate about fourteen hundred thousand dollars less than was appropriated for the same purposes for the current year. Considering the vast number of offices abolished by the section under consideration, it is evident that this transfer of the manage-

ment of Indian affairs from the Interior to the War Department contributes largely to the general reduction of expenditures by the bill. At least the Chair may safely infer from this fact that the other provisions of the bill have not increased expenditures in consequence of the large reduction thereof by the second section of the bill.

But it has been argued with much plausibility that the Chair can not foresee what increased appropriations may be necessary in the future in order to support and pay the Army on account of the increased duties imposed upon its officers, soldiers, and employees by this section. And that, in consequence of war or other unforeseen emergency, or of the alleged impossibility of the present military force to perform the increased duties imposed upon them, it may be necessary hereafter to make much larger appropriations for the Indian Service than are now necessary under the present management. Such arguments may with propriety be addressed to the committee or the House, but the Chair can not speculate thus upon the uncertainties of human events. He has only to consider whether this section, by its own force, in connection with the other provisions of the bill, in view of existing law, does retrench expenditures, and whether the bill is so perfect and complete in itself as not to depend upon other or further legislation to give it effect.

That the section under consideration is now legislation, changing existing law, is admitted. But the rule as amended at this session expressly provides that such new legislation may be in order, in a general appropriation bill, provided it be germane to the subject matter of the bill, and shall retrench expenditures. The section under consideration, in the opinion of the Chair, meets both these requirements and is therefore in order as a part of this bill, so far as the rule is concerned.

The importance of the question under consideration, and the effect which the proposed legislation must have upon the Indians themselves, and the great interest which this subject has attracted in this House and throughout the country are the Chair's only apology for the somewhat lengthy opinion which he has submitted.

For the reasons stated the point of order is overruled.

1529. On February 4, 1933,[1] the Legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, and an amendment proposing the reduction of the salaries of Senators and Representatives from $10,000 to $7,500 per annum was pending.

Mr. C. William Ramseyer, of Iowa, offered the following as a substitute for the amendment:

The compensation of Senators for a month's service during the fiscal year ending June 30, 1934, shall be at the rate of $10,000 per annum if the average wholesale commodity price level during the month next preceding was 90 or more; $9,000 per annum if such level was 80 or more, but less than 90; $8,000 per annum if such level was 70 or more, but less than 80; $7,000 per annum if such level was less than 70. For the purposes of the preceding sentence, the average wholesale commodity price level during a month shall be the index number of wholesale all-commodity prices, based upon the year 1926 as 100, as indicated for that month in the monthly compilation of wholesale prices compiled by the Bureau of Labor Statistics of the Department of Labor.

Mr. John N. Sandlin, of Louisiana, made the point of order that the substitute proposed legislation and was not in order on an appropriation bill.

Mr. Ramseyer defended the admissibility of the substitute as involving a reduction in the compensation paid officers of the United States, and said:

Under my amendment, if prosperity is restored, that is, where the commodity index number will reach 90 or more, next August a Senator would receive for his month's pay at the rate of $10,000 per annum. If the commodity index number is 90 or more, it would not change the

[1] Second session Seventy-second Congress, Record, p. 3392.

salary under existing law. My amendment will bring about a saving if the commodity index does not rise to 90. At present the index number is 60.4; and if it remains there, or below 70, the monthly pay for the months that the index number is below 70 would be at the rate of $7,000 per annum.

The Chairman [1] sustained the point of order on the ground that the alleged retrenchment was speculative and not a necessary and inescapable consequence which might be expected to follow the enactment of such legislation.

1530. The reduction of expenditure relied upon to bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill must appear as a certain and necessary result and not as a probable or possible contingency.

On February 16, 1893,[2] The pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Points of order raised by Mr. Nelson Dingley, jr., of Maine, were pending on the following amendments proposed to the bill on the preceding day by the Committee on Appropriations:

AMENDMENT NO. 1.

That on the 30th day of June, 1893, the Bureau of Pensions, with all of its remaining officials and employes, and all of its records, files, and property shall be transferred to the War Department, and shall thereafter form a part of the record and pension office of that department; and the Board of Pension Appeals, now in the Interior Department, shall at the same time be transferred to the War Department; and the Secretary of said department shall thereafter exercise all the powers and perform all the duties under the pension laws that are now exercised and performed by the Secretary of the Interior; and the President of the United States shall designate an officer of the Army whose rank and pay during such designation shall be that of a colonel, who shall exercise all the powers and perform all the duties that are now exercised and performed by the Commissioner of Pensions, and he shall likewise designate two officers of the Army, whose rank shall not be below that of captain, who shall perform such duties as may be assigned them by the Secretary of War; and while so employed they shall receive no compensation additional to their Army pay and allowances: *And provided further,* That the offices of Commissioner of Pensions and First and Second Deputy Commissioners of Pensions be abolished on and after said 30th day of June, 1893.

AMENDMENT NO. 2.

That the Secretary of War is authorized, during the fiscal year 1894, to detail from time to time medical examiners in the Record and Pension Office, for the purpose of discharging the duties in all respects heretofore imposed upon and exercised by examining surgeons of pensions; and there may be appointed by the Secretary of War an additional force of one hundred and twenty special medical examiners for the fiscal year 1894, at annual salaries of $1,500 each, and the Secretary of War shall require that all of said special medical examiners shall be surgeons of education, skill, and experience in their profession, and shall impose upon them the powers in all respects now exercised under the law by examining surgeons of pensions; and the examination and certificate of any one of said special medical examiners, or medical examiners so detailed in conjunction with one examining surgeon of pensions, shall have the same force and effect as those of the present boards of examining surgeons. The said medical examiners and special medical examiners shall be assigned by the Secretary of War to such locations within the United States as he may deem most convenient for pension applicants; and they shall receive when absent from home and traveling on duty outside of the District of Columbia, in lieu of expenses for subsistence, $3 per day,

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[1] Alfred L. Bulwinkle, of North Carolina, Chairman.

[2] Second session Fifty-second Congress, Record, p. 1690.

together with an allowance for actual and necessary expenses for transportation and assistance: *Provided,* That no such special medical examiner or medical examiner shall be assigned to any county, city, or congressional district of which he may at any time have been a resident: *And provided further,* That the boards of examining surgeons as now constituted be, and they are hereby, reorganized so as to consist of but one examining surgeon, to be designated by the Secretary of War, acting in conjunction with one medical examiner or one special medical examiner detailed for that purpose as above provided. For salaries of the one hundred and twenty special medical examiners above authorized, $180,000. For per diem, when absent from home and traveling on duty outside the District of Columbia, for special medical examiners or medical examiners detailed for service as herein provided, in lieu of expenses for subsistence, and for actual and necessary expenses for transportation and assistance, $175,000; in all, $355,000.

AMENDMENT NO. 5.

That the rating of all pensions for like disabilities shall be uniform, and that all pensions heretofore granted or hereafter to be granted in pursuance of the act of June 27, 1890, shall be rated upon the inability of the pensioner to earn a living by manual labor.

AMENDMENT NO. 6.

That from and after July 1, 1893, no pension shall be paid to any person drawing a pension under the provisions of chapter 634 of the act of the year 1890, unless he shall show that he is disabled for manual labor, and unless he shall show to the satisfaction of the Pension Office, by proper affidavits, that his annual income is less than $600 a year.

AMENDMENT NO. 7.

That from and after July 1, 1893, no person shall be paid a pension, under any general law as the widow of a soldier of any war, unless said widow was married to the soldier as the widow of whom she draws a pension at some time previous to five years after the close of the war in which her husband served.

The Chairman[1] said:

At the rising of the committee yesterday points of order had been made and debated upon sundry amendments proposed to be offered successively to this bill by the Committee on Appropriations, which reported the bill.

Fortunately for the Chair, the rule allowing amendments to appropriation bills was the subject of a very thorough debate in the first Congress which adopted it—the Forty-fourth—a debate participated in by such men as Mr. Garfield, Mr. Randall, Mr. McCrary of Iowa, Mr. Seelye of Massachusetts, and others, and of a careful construction by the Speaker of that Congress, Mr. Kerr, who was universally recognized as an able and learned parliamentarian. Speaker Kerr held that the rule should have a liberal construction in the interest of retrenchment.

"The purpose of the rule is most beneficent and proper, and the Chair under any circumstances not attended with extreme doubt would hold it to be his duty to enforce the rule."

By which I understand he meant to admit an amendment.

The second clause of Rule XXI provides that no amendment to an appropriation bill changing existing law shall be in order unless it be germane to the subject matter of the bill and retrench expenditures in one of three modes prescribed in that rule. The rule upon which Speaker Kerr made his decision was in the same language, except that the modes of retrenching expenditures had not then been specified.

The first question that the Chair is called upon to decide is whether the first amendment offered by the Committee on Appropriations is germane to the subject matter of this bill, and if germane, whether it retrenches expenditures in any of the modes required by the rule. It was argued with great force by the gentleman from Maine, Mr. Dingley, that it was not germane to the subject matter of the bill, because this is a bill making appropriations for the payment of invalid and other pensions under existing laws, whereas the amendment refers to the administra-

[1] William L. Wilson, of West Virginia, Chairman.

tion of the Pension Bureau itself, and it has been the practice of the House to appropriate for the salaries of the officers of the Pension Bureau in the legislative, executive, and judicial appropriation bill.

There is much force in the argument. But it must be observed, when we come to examine the subject matter of the bill, that it not only makes appropriations for the payment of pensions but deals with a part of the machinery or official staff through which these appropriations are to be administered. Can it be held that to such a bill carrying, as does the present, appropriations of more than $166,000,000, an amendment which merely prescribes or deals with the administrative machinery through which those appropriations are to reach their beneficiaries is not germane? The Chair thinks not, and he accordingly rules that the amendment under consideration is germane to the subject matter of this bill.

The question next arises, Does it retrench expenditures in any of the modes prescribed by the rule? And here the Chair finds himself greatly relieved by decisions heretofore had in a similar case, or in one so nearly like to that now before this committee as to furnish a good precedent.

Speaker Kerr laid down the rule that in considering the question whether an amendment operates to retrench expenditures the Chair can look only to what is properly of record before him—that is, the pending bill, the specific section under consideration, the law of the land so far as it is applicable, and the parliamentary rules and practice of the House; and beyond these he is not permitted to go in deciding the question.

When the general legislative, executive, and judicial appropriation bill was pending in this House in the Forty-fourth Congress an amendment was offered transferring the Indian Bureau to the War Department; and upon the point of order made against that amendment Speaker Kerr's decision was given. He held, in substance, that as the amendment operated to reduce the number and the salaries of officers paid out of the Treasury of the United States, it would have been in order if it had been in itself a perfect and complete piece of legislation, but that on the face of the amendment it was clear that it would have to be perfected by further and additional legislation, and it was not possible for the Chair to determine whether this necessary additional legislation would operate to retrench or to increase expenditures. He based his decision in favor of the point of order strictly upon that ground.

When the Indian appropriation bill came before the House, a few days later, an amendment making this transfer was again offered. It was then in itself a complete piece of legislation. The Chair could see by an examination of it that it would operate, of its own force, to effect this transfer and to abolish certain offices and then bring about a retrenchment of expenditure; and Mr. Springer, of Illinois, then occupying the chair, delivered a careful and elaborate opinion, which had been submitted to and concurred in by Speaker Kerr, holding the amendment to be in order. In accordance with these precedents, the Chair holds that the first amendment proposed to this bill by the Committee on Appropriations is in order, and overrules the point of order made by the gentleman from Maine, Mr. Dingley.

The second amendment proposed by the Committee on Appropriations is to abolish two members, as the Chair understands, of all the local examining boards, and in their stead to authorize the appointment of a certain number of medical examiners, 120 in number, with fixed salaries, who, in connection with the remaining member of each board, are to perform the duties now committed to the local examining boards.

The Chair may believe, as an individual, that the effect of this amendment would very probably be to save a considerable sum of money to the Treasury of the United States. He may see, as an individual, that such would be its effect; but he can not see by the record to which he is now confined that the amendment propria vigore would necessarily bring about such a result. Under the practice, or perhaps under the law as it exists to-day, members of the local examining boards are paid according to the services they perform.

They have no fixed salaries, and the amount that is to be paid is entirely one of estimate and of conjecture based upon past experience. How abolishing two-thirds of the membership of boards which to-day have no fixed salaries, but receive fees depending entirely on the number of examinations they make, and substituting 120 salaried officers who are each to receive $1,500 a

year as salary and $3 per day for subsistence when traveling on duty, together with an allowance for actual and necessary expenses for transportation and subsistence—an indefinite charge upon the Treasury—will necessarily retrench expenditures, the Chair is unable to see, looking only to such things as the Chair can properly look to in ruling on this point. The Chair sustains the point of order to the second amendment.

The next amendment is as follows:

"That the rating of all pensions for like disabilities shall be uniform, and that all pensions heretofore granted or hereafter to be granted in pursuance of the act of June 27, 1890, shall be rated upon the inability of the pensioner to earn a living by manual labor."

The Chair also sustains the point of order made to that amendment, because it is not in the power of the Chair from the proper record to determine whether it will operate a decrease or an increase of expenditures.

As to the amendments numbered 6 and 7, in the printed bill, the Chair finds that it has already been held by occupants of the chair in Committee of the Whole, notably the gentleman from Ohio, Mr. Outhwaite, presiding at the first session of the present Congress, that an amendment to the pension appropriation bill tending to increase the class of persons prohibited from the benefits of the pension laws is in order, because its effect will be to reduce expenditures. Adopting that ruling, which has heretofore been made, the Chair overrules the point of order to the amendments numbered 6 and 7.

On appeal by Mr. Julius C. Burrows, of Michigan, the decision of the Chair was sustained—yeas 103, noes 63.

1531. On February 17, 1893,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

For manufacture of stamped envelopes, newspaper wrappers, and letter sheets, $1,110,000: *Provided,* That it shall be lawful after the 30th day of September, 1894, for the Postmaster General to have the usual requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department.

Mr. Owen Scott, of Illinois, having raised a question of order on the proviso to the paragraph, the Chairman[2] ruled:

The Chair is ready to rule on the question of order presented against the proviso beginning in line 13, on page 5, down to and including line 17, in the following language:

"Provided, That it shall be lawful after the 30th day of September, 1894, for the Postmaster General to have the usual requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department"—

The gentleman from Illinois has raised the point of order, which is that that provision is a change of the existing law and does not retrench expenditures.

By reference to the act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1893, approved by July 13, 1892, the Chair finds the law on this subject to be as follows:

"Provided, It shall not be lawful after the 30th day of September, 1894, for the Postmaster General to have requests for the return of letters printed upon any envelope sold by any postmaster or by the Post Office Department: *Provided further,* That the Post Office Department may continue after the 30th day of September, 1894, to furnish in any quantities stamped envelopes containing the following words: 'If not delivered in ten days return to.'"

That is a general provision of law adopted upon the Post Office appropriation bill of that year.

The Chair thinks that the proviso against which the point of order is made is a change of the existing law, because it authorizes the Postmaster General to do that which the act of 1892 forbids him to do.

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[1] Second session Fifty-second Congress, Record, p. 1765.

[2] Newton C. Blanchard, of Louisiana, Chairman.

The Chair further finds that the proposition against which the point of order is made does not upon its face reduce expenditures. The Chair thinks that that provision does not come under the proviso referred to by the gentleman from California, Mr. Loud, in the following words:

"Provided, That it shall be in order further to amend such bill upon the report of the committee having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject matter of the bill, shall retrench expenditures."

Now, this proposition, waiving the question for the present as to whether it be germane or not, does not upon its face, the Chair thinks, retrench expenditures, and therefore it does not come within the purview of the proviso to clause 2 of Rule XXI.

The Chair, therefore, is constrained to sustain the point of order on the ground that this proviso to the pending paragraph does change existing law and does not on its face retrench expenditures.

An appeal by Mr. W.W. Dickerson, of Kentucky, from the decision of the Chair, after having debated until adjournment, was withdrawn on the following day.

1532. On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. John J. Fitzgerald, of New York, offered an amendment as follows:

Provided, That on and after July 1, 1912, there shall not be maintained in the District of Columbia more than one disbursing office for the Signal Corps or any one of the staff departments of the Army.

Mr. George W. Prince, of Illinois, made a point of order on the amendment. The Chairman[2] held:

The Chair is not informed whether the existing law provides for more than one disbursing office, but suppose for argument's sake that it does. The Chair can not say that the necessary effect of the amendment will be to reduce expenses. One disbursing office might have as many officers in it as two disbursing offices would have. The rent for a building for one disbursing office might be as great as the rent for two buildings for two disbursing offices. This amendment does not appear to the Chair to necessarily retrench expenditures, and the point of order is sustained.

1533. On January 16, 1913,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the following paragraph was reached:

For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $550,000.

Mr. William E. Cox, of Indiana, proposed this amendment as a substitute for the paragraph:

For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $392,855: *Provided,* That hereafter all officers of the Army when traveling under orders shall be paid their actual traveling expenses and no more.

Mr. James R. Mann, of Illinois, made the point of order that notwithstanding the reduction in the figures of the appropriation, the amendment did not necessarily propose a retrenchment in expenditures.

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[1] Second session Sixty-second Congress, Record, p. 2116.

[2] Edward W. Saunders, of Virginia, Chairman.

[3] Third session Sixty-second Congress, Record, p. 1645.

The Chairman [1] said:

Before ruling the Chair will make a statement of the essential facts. The principle of the ruling having been heretofore announced it is unnecessary to restate it.

First, with relation to the reduction in the total amount, it may be stated that an amendment to this effect does not need the authority of the Holman rule to make it in order. The gentleman from Indiana can offer an amendment affecting a reduction in any aggregate total without reference to this rule.

Now, in respect to the legislative portion of the amendment, the Chair will say that if the allowance of 7 cents a mile was merely intended to cover the cost of railroad transportation, the Pullman cost, tips, and meals on the train the Chair would not have the slightest hesitation in reaching the conclusion that a provision for actual expenses would necessarily reduce expenses, having reference to facts of the cost of railway travel that are matters of common knowledge.

But another feature is presented. It appears that this allowance of 7 cents a mile is intended to cover other expenses than the cost of travel on the railways, tips, Pullman fares, and the cost of meals. When the party entitled to this allowance reaches his destination his expenses for an indefinite period are paid out of the same fund. Sometimes the allowance might be more than sufficient to pay the costs of travel and the further costs accruing at the point of destination. At other times this allowance might be insufficient. Having reference to the entire body of expenses it is a matter of speculation whether an allowance of 7 cents a mile or the payment of actual expenses would be the cheaper policy for the Government. But looking in the hearings to the testimony of one man who ought to have some practical, I might almost say expert knowledge on the subject (I refer to the testimony of General Aleshire), I find that he states that in his judgment, under the policy of paying actual expenses, as compared with an allowance of 7 cents a mile, the Government would be the loser and the officers the gainers.

Having in mind all the facts, including the statement of this witness, how can the Chair, conclude that this amendment will reasonably and sufficiently operate to reduce expenses? And yet to hold that this amendment is in order the Chair must be reasonably satisfied that the legislative portion of the amendment operating of its own force will effect a reduction of expenditures. This is the whole question as the Chair sees it, and so far as the Chair is apprised this amendment will not necessarily effect a retrenchment.

There seems to be such a succession of rulings necessary to be made under the Holman rule that the Chair would be very glad to have an appeal taken from some one ruling and the question of principle involved affirmatively settled by the committee. The Chair has no pride of opinion. He merely desires to see the controlling principle of interpretation correctly and authoritatively announced. On an appeal the committee could determine whether this amendment will operate with reasonable certainty to reduce expenditures. Unless it will so operate it is not in order. The Chair sustains the point of order to the amendment.

1534. Though the Chairman may be personally convinced that a legislative proposal provides for retrenchment of expenditures, unless such retrenchment appears as a necessary and inevitable result of its operation, he may not hold it in order on an appropriation bill.

On January 30, 1915,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

There shall be a chief of naval operations who shall be an officer on the active list of the Navy not below the grade of rear admiral, appointed for a term of four years by the President, by and with the advice and consent of the Senate, who, under the Secretary of the Navy, shall be responsible for the readiness of the Navy for war and be charged with its general direction. All

[1] Edward W. Saunders, of Virginia, Chairman.

[2] Third session Sixty-third Congress, Record, p. 2748.

orders issued by the chief of naval operations in performing the duties assigned him shall be performed under the authority of the Secretary of the Navy, and his orders shall be considered as emanating from the Secretary and shall have full force and effect as such. To assist the chief of naval operations in preparing general and detailed plans of war there shall be assigned for this exclusive duty not less than 15 officers of and above the rank of lieutenant commander of the Navy or major of the Marine Corps.

Mr. James R. Mann, of Illinois, made a point of order on the paragraph. Mr. Richard Pearson Hobson, of Alabama, contended that through increased efficiency of the service provided by the proposed legislation, expenditure would be largely retrenched.

The Chairman [1] held:

The Chair will state to the gentleman from Alabama that unless he can show that a reduction of this expenditure appears as a necessary result from this provision in the bill, it would not come within the terms of the rule, notwithstanding some statement of opinion by somebody or by the gentleman himself. Even if the Chair himself believed that it would eventually reduce expenditures, yet that would not be sufficient, in the opinion of the Chair.

1535. Provision that the duties of an officer authorized by law be performed by another officer in the service of the Government in addition to his own duties was held to reduce the number and salary of officers of the United States.

While the Chair in passing upon a point of order may not speculate as to the effect of legislation, he is authorized to take judicial cognizance of statutory law.

On March 9, 1916,[2] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A point of order presented by Mr. James W. Good, of Iowa, was pending on an item in the bill appropriating for the salary of the Assistant Solicitor of the Treasury with the additional provision that he should also act as chief clerk.

The Chairman [3] said:

When the committee rose at its last sitting, a point of order was made by the gentleman from Iowa to the following words in the bill:

"Who shall also act as chief clerk."

While as a general proposition, under the rules of the House, it is not in order to legislate on general appropriation bills, yet there are exceptions making it in order to legislate, and under clause 2 of Rule XXI, commonly known as the Holman rule, it is in order by germane amendments which would retrench expenditures of the Government by the reduction of the number and salaries of the officers of the United States.

Now, it will generally be accepted, I apprehend, that a presiding court takes judicial cognizance of any statute law. The Chair thinks that the presiding officer of this House is authorized, in passing on points of order, to take judicial cognizance of any statute law. The Chair is aware that under the current law in the office of the Solicitor of the Treasury there is a chief clerk, receiving a salary of $2,000. The language to which the point of order is made, the Chair thinks, clearly does away with the office of chief clerk, thereby reducing by one the number of salaries paid out of the Treasury of the United States, and places those duties upon the Solicitor of the Treasury. For these reasons the Chair overrules the point of order.

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[1] James Hay, of Virginia, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 3853.

[3] Charles R. Crisp, of Georgia, Chairman.

1536. On January 27, 1931,[1] during consideration of the independent offices appropriation bill, in the Committee of the Whole House on the state of the Union, this provision was read:

Provided further, That the directors of the United States Housing Corporation of New York and the United States Housing Corporation of Pennsylvania may, with the approval of the Secretary of Labor, appoint the chief clerk or other officer of the Department of Labor to act as their president or as their immediate representative in charge of administrative work, such departmental officer to serve without compensation in addition to the salary of his official position, and the directors of these corporations may in like manner designate the disbursing clerk for the Department of Labor to act in a similar capacity for the corporations, and after such designation has been made all funds coming into the hands of said disbursing clerk shall be treated as funds of the United States to be accounted for under his official bond.

Mr. Robert G. Simmons, of Nebraska, made the point of order that the provision was legislation.

Mr. John W. Summers, of Washington, opposed the point of order on the ground that the provision retrenched expenditure and therefore was admissible under the rule.

The chairman[2] sustained the point of order and said:

The rule is as follows, quoting part of clause 2 of rule XXI:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

This proviso, as the Chair is able to read it, is legislation on an appropriation bill which is not authorized by law. There is, however, no way that the Chair can determine that this is a reduction in fact in the expenditure of the sums of money in the appropriation. In order to be justified as legislation on an appropriation bill, it must come within the provision of the rule heretofore quoted. The Chair can not see where a definite retrenchment is made and therefore sustains the point of order.

Thereupon, Mr. Clifton Woodrum, of Virginia, offered the same provision in this form:

Provided further, That upon the approval of this act, the directors of the United States Housing Corporation of New York, and the United States Housing Corporation of Pennsylvania shall appoint the chief clerk or other officer of the Department of Labor to act as their president or as their immediate representative in charge of administrative work, such departmental officer to serve without compensation in addition to the salary of his official position, and the directors of these corporations shall in like manner designate the disbursing clerk for the Department of Labor to act in a similar capacity for the corporations and shall reduce the pay roll by not less than the annual rate of $13,770.

Mr. Simmons again having advanced the same point of order, the Chairman ruled:

The Chair a moment ago read a part of the rule under which we are operating. The second sentence in clause 2 of Rule XXI is as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as being germane to the subject matter of the bill shall retrench expenditures by

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[1] Third session Seventy-first Congress, Record, p. 3330.

[2] Cassius C. Dowell, of Iowa, Chairman.

the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

Under that rule legislation is in order on an appropriation bill provided it comes within one of the exceptions quoted above. This amendment, if in order, must be justified under the provisions of the rule commonly referred to as the Holman rule.

The Chair in this connection desires to quote from a decision made by the gentleman from Georgia, Mr. Crisp, a very able parliamentarian, which may be found in section 8600 of Cannon's Precedents:

"The Chair is aware that under the current law in the office of the solicitor of the Treasury there is a chief clerk receiving a salary of $2,000. The language to which the point of order is made the Chair thinks clearly does away with the office of chief clerk, therefore reducing by one the number of salaries paid out of the Treasury of the United States, and places those duties on the Solicitor of the Treasury."

That seems to me to be the identical question that we have before us now. For the reasons stated, the Chair then overruled the point of order.

The same chairman, Mr. Crisp, in section 1537 of Cannon's Precedents, in ruling on another proposition which involved the Holman rule, said:

"The question, therefore, for the Chair to pass upon is to determine, first, if the amendment is germane; second, if it comes within one of the excepted classes; and, third, if the legislative part of the amendment is connected up with a proposition to reduce the number of salaries of officers paid out of the Treasury of the United States, under which it is claimed the legislation is in order."

The Chair thinks that the amendment offered by the gentleman from Virginia is germane to the proposition under consideration. The Chair also thinks that the amendment comes within the last two of the exceptions noted in the rule. The amendment in express terms reduces the amount paid out of the funds appropriated in the bill. Further, it reduces the salary of at least one person; and the Chair therefore overrules the point of order.

1537. To come within the exception to the rule prohibiting legislation on an appropriation bill, an amendment must show on its face a retrenchment of expenditure, and the Chairman in construing such amendment may not surmise as to its possible or probable effect.

Legislation accompanying an amendment reducing expenditures must be so related as to contribute directly to such reduction.

On March 14, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William P. Borland, of Missouri, offered the following amendment:

That the number of persons in the classified service authorized to be employed in the several executive departments and other executive establishments and the government of the District of Columbia shall be reduced by one-tenth on or before the 30th day of June, 1917, and in order that such reduction may be made within loss of service to the Government and to equalize the hours of work required of those in the classified employments of the United States it is made the duty of heads of the several executive departments and other executive establishments and the government of the District of Columbia to hereafter require subject to the provisions and exceptions of section 7 of the legislative, executive, and judicial appropriation act for the fiscal year 1899, approved March 15, 1898, not less than eight hours of labor each day, except Sundays and days declared public holidays by law or Executive order: *Provided,* That the provisions of this section shall not apply to the classified employees of those branches of the public service in which such employees are now required to work eight hours a day.

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[1] First session Sixty-fourth Congress, Record, p. 4075.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the amendment was not in order on an appropriation bill, and in support of his contention cited a decision by Chairman James D. Richardson, of Tennessee, in the Fifty-second [1] Congress.

The Chairman [2] ruled.

While it is true, under the general rules of the House, that legislation is not in order on an appropriation bill, under the rules of the present House there is an exception to that general rule, the exception being that an individual Member of the House can offer amendments providing expenditures of the Government in either of the following three methods: By the reduction of the number and salary of the officers of the United States, or by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amount of money covered by the bill. The individual Member, and nonlegislating committees on all fours with individual Members, can propose germane legislation to an appropriation bill if it falls within either of those three excepted classes.

The Holman rule provides an additional method of legislating on an appropriation bill. The proviso to clause 2 of Rule XXI provides that legislation the natural consequence of which is to retrench expenditures is in order if it is proposed by a committee of the House having jurisdiction of the legislative subject of the amendment, or by a joint commission, or the House members of a joint commission authorized to deal with the legislative subject.

The proponent of the amendment in question contends that while it is legislation it is in order, because he contends that it falls within one of the excepted classes permitting an individual Member of the House to offer germane legislation. The proponent of the amendment contends that it reduces the number of officers whose salaries are paid out of the Treasury of the United States.

The question, therefore, for the Chair to pass upon is to determine, first, if the amendment is germane; second, if it comes within one of the excepted classes; and, third, if the legislative part of the amendment is connected up with the proposition to reduce the number of salaries or officers paid out of the Treasury of the United States under which it is claimed the legislation is in order.

The bill before the House is the legislative, executive, and judicial appropriation bill, dealing generally with the salaries of officers and employees of the United States Government. The Chair is cognizant of the fact that there are some exceptions to that, notably the Agricultural Department, but in the main it is the appropriation bill which carries the salaries for the officers and employees of the Government. The amendment seeks to deal with a certain number of the employees of the Government, and the Chair thinks the amendment proposing a new section dealing with a certain class of Government employees is germane to the bill.

Now, the question arises whether the amendment of itself does reduce the number of officers paid out of the Treasury of the United States. The Chair is of the opinion that the amendment must show on its face that it does perform one of the functions required under the rule to make it in order. The Chair is clearly of the opinion that the language of the amendment using the word "shall" makes it mandatory upon the heads of the departments on or before June 30, 1917, to reduce the number of employees in their departments one-tenth, unless they are relieved of that duty by the proviso of the amendment. The amendment clearly reduces the salaries to be paid out of the United States Treasury, one of the exceptions under the rule authorizing legislation on an appropriation bill.

Now, the question arises, on the point of order made by the gentleman from Wyoming, Mr. Mondell, whether or not the amendment is divisible. The gentleman from Wyoming contends that if the first part of the amendment, reducing the number of clerks, is in order the last, or legislative part, is in no way connected with it and it is not in order. It is undoubtedly in order under the rules of the House to reduce the number of employees, or to move to strike out

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[1] Second session Fifty-second Congress, Record, p. 1392.

[2] Charles R. Crisp, of Georgia, Chairman.

the number of employees, without the Holman rule. And the object of the Holman rule, as the Chair understands it, is to permit germane legislation under certain conditions.

Now, the Chair is clearly of the opinion that where an amendment is offered reducing the number of salaries paid out of the Treasury, coupled with legislation, that legislation, to be in order, must be connected up with or related to or logically follow from the part of the amendment reducing the number of employees or the amounts of money covered by the bill, and so forth.

The Chair had the pleasure of being here when the rulings referred to by the gentleman from Wyoming, Mr. Mondell, were made, and the Chair has the greatest respect for the opinions of those who participated in that ruling; but the principal precedent cited is the one where an amendment proposed to reduce by one the number of clerks in the Court of Claims, coupled with a legislative provision repealing an act of Congress known as the Bowman Act. The Chair does not think that to reduce one clerk in the Court of Claims is in any way germane or connected with or that it logically follows or has any connection with the repeal of the Bowman Act.

Now, what does the amendment in question do? It provides that one-tenth of the employees of the various executive departments shall be discharged or reduced. The legislative part of the amendment provides that when this reduction is made the remaining clerks shall work eight hours instead of seven. The Chair can not escape the conclusion that if you reduce the number of clerks the business of the Government will require those remaining in the service to work loner hours. The Chair thinks the legislation naturally and logically follows the provision reducing the number of clerks.

Now, the Chair, as before stated, believes the Holman rule is intended to have a beneficial effect upon the Treasury of the United States. If the Chair is in doubt about whether or not an amendment is in order, he believes it is his duty to resolve that doubt against the point of order, for by so doing the Chair works no hardship upon anyone, but submits to the committee itself the privilege of passing upon the amendment. If the committee favor it, a majority can adopt it. If they are opposed to it, a majority can reject it.

The Chair believes the amendment in question comes clearly within the spirit of the Holman rule, and therefore the Chair, without any reference whatever to the merits of the proposition, overrules the point of order and holds the amendment in order.

1538. Unless an amendment proposes legislation which will retrench expenditure with definite certainty, it is not in order under the Holman rule.

On March 12, 1918,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. Mr. William W. Rucker, of Missouri, offered this amendment:

Appointment shall not be made to any of the positions herein appropriated for in the classified service of the Patent Office not actually filed June 30, 1918, nor shall more than 25 per cent of other vacancies actually occurring in any grade in the classified service of that bureau, during the fiscal year 1919, be filled by original appointment or promotion. The salaries or compensation of all places which may not be filled as hereinabove provided for shall not be available for expenditure, but shall lapse and shall be covered into the Treasury. The provisions of this paragraph shall not apply to any position with a salary of $2,250 or above that sum.

Mr. Joseph W. Byrns, of Tennessee, having raised a question of order on the amendment, Mr. Rucker referred to a previous ruling on a similar paragraph in the same bill applying to the Patent Office, in which vacancies existed at the time the bill was under consideration.

The Chairman[2] ruled:

The vacancies, as the Chair understood, were of record, and undisputed. The Chair will call attention to the fact that the amendment proposed presents an entirely different situation

[1] Second session Sixty-fifth Congress, Record, p. 3405.

[2] Edward W. Saunders, of Virginia, Chairman.

from the one heretofore ruled upon: It may be very likely, indeed highly probable, in the light of experience that there will be vacancies during the time to which the amendment relates. But that is a purely speculative proposition. In the case referred to there were actual existing vacancies which could not be filled, provided the paragraph remained in the bill. The retention of that paragraph kept those vacancies from being filled, and that result was, in effect, a reduction of existing employees of the Government, and of official salaries. That reduction brought the paragraph within the benefit of the Holman rule. But the case in hand, is as stated, a speculative proposition. There may be vacancies hereafter arising. It is highly probable that these vacancies will occur, but that is as far as we can go. The Chair can not say, that there is a moral certainty that these vacancies will take place, and unless it is a moral certainty that they will occur, thereby taking that occurrence out of the domain of speculation, the amendment proposed will not operate ex proprio vigore, to reduce expenditures. The Chair sustains the point of order.

1539. On January 18, 1919,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph relating to rent of temporary offices was reached.

Mr. Otis Wingo, of Arkansas, offered this amendment:

Provided, That in the case of space under lease for a term of years no appropriation shall be available for rent until the head of the department in each case shall certify in writing that he has made every proper effort to sublet or procure a cancellation by mutual consent where it is possible to procure space in Government-owned buildings or rent other suitable space at a lower rental than that covered by existing laws.

Mr. William H. Stafford, of Wisconsin, made a point or order on the amendment.

The Chairman[2] ruled:

The Chair thinks that it is entirely speculative as to whether it would be a saving or additional expense. The Chair made his ruling predicated on the Holman rule, assuming that the gentleman offered his amendment under the Holman rule on the ground that it would result in the reduction of expenditure. Construing the Holman rule on January 30, 1915, Mr. Hay, as Chairman of the Committee of the Whole, held:

"To be within the Holman rule, the reduction of expenditures must appear as a necessary result of the legislative provision sought to be incorporated."

In Hinds' Precedents, volume 4, section 3887, page 591, it is held that an amendment—"must not be merely speculative, but must appear on the face of the bill."

The point of order is sustained.

1540. The grant of executive discretion to effect a reduction of expenditure, without mandatory direction, does not bring a proposition within the exception to the rule prohibiting legislation on an appropriation bill.

It is not sufficient that proposed legislation on an appropriation bill will probably reduce expenditure, but such reduction must appear as a necessary and inevitable result in order to admit it under the rule.

On February 14, 1919,[3] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William B. Bankhead, of Alabama, offered the following amendment as a new paragraph:

The Secretary of War is hereby authorized and directed, immediately upon the approval of this act, to discharge from the military service any soldier or enlisted man who was drafted or

[1] Third session Sixty-fifth Congress. Record, p. 1695.

[2] Joshua W. Alexander, of Missouri, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 3385.

enlisted for the duration of the war with Germany upon the application of such drafted or enlisted man supported by his own affidavit upon any one or more of the following grounds:

1. Dependents at home wholly dependent upon his labor or assistance.

2. In all cases where the United States is now paying dependents a family allowance.

3. To those soldiers who at the time of entering the military service were engaged exclusively in agriculture for a livelihood.

Mr. Hubert S. Dent, jr., of Alabama, raised a question of order on the amendment. Mr. Bankhead in debating the question, called attention to a former ruling [1] by the sitting Chairman on a point of order against an amendment reducing the number of cavalry regiments in the Army.

The Chairman [2] held:

The chair recollects very well the ruling cited by the gentleman from Alabama. It was a ruling made in connection with the Army appropriation bill about eight years ago, and the Chair thinks the principles announced in that ruling are sound.

Referring to the ruling, it will be noted that it announces that the operation of the amendment must necessarily reduce expenses, not theoretically reduce them, not make it highly probable or likely that they will be reduced, but that sufficiently and necessarily by its own force it will operate a reduction of expenditures. It is not necessary, however, to show that that reduction would be $1,000, or $5,000, or any particular indicated amount. The amendment under consideration gives discretion to certain officials. It does not effect an automatic or certain reduction of the Army. The cases cited by the gentleman, to wit, of the Cavalry regiments and the pension cases, were cases where a definite elimination was affected. No power of discretion was given to any official in the Pension Bureau, but certain names were stricken from the pension rolls. That was true, too, in the case of the Cavalry regiments. They were eliminated, and while one might not be able to figure to the last dollar what the reduction would be, of necessity the elimination of several Cavalry regiments would effect a reduction in the general cost of the Army. In this case discretion is given to certain officials.

The Chair does not understand that the superior officers are to be left without discretion and that the filing of the affidavits will effect an automatic discharge. If the gentleman will so word his amendment as to give it that effect, namely, that when a soldier files his affidavits thereupon, ipso facto, he will be discharged, the Chair would have no difficulty in finding that the amendment in that form would effect a reduction in expenses and therefore would be in order.

As the Chair understands the amendment, it leaves discretion in the official with whom the papers shall be filed. If the Chair properly interprets the amendment, then these applications for discharge will be passed on by officials having authority to approve or deny the leave. It is not possible for the Chair to forecast how that discretion will be exercised, and therefore there is too much of the problematical about the results of the amendments to justify the Chair in saying that of necessity this amendment will necessarily operate to reduce expenses.

The Chair considers that a ruling sustaining the point of order comes within the principles announced in the ruling cited and is in conformity therewith. The point of order is sustained.

1541. In construing a legislative proposition purporting to reduce expenditures, it is not within the province of the chair to speculate upon contingencies which might arise in the future to cause an increase rather than a decrease, and if a reduction is apparent on the face of the proposition it is in order.

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[1] See section 1491 of this work.

[2] Edward W. Saunders, of Virginia, Chairman.

Dicta in contravention of an established ruling,[1] holding that a legislative provision increasing the enlisted force of the Navy is not in order on an appropriation bill.

On June 13, 1919,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read as follows:

The total authorized enlisted strength of the active list of the Navy is hereby temporarily increased from 131,485 during the period from July 1, 1919, to September 30, 1919, to 241,000 men, and from October 1, 1919, to December 31, 1919, to 191,000 men, and from January 1, 1920, to June 30, 1920, to 170,000 men, and the Secretary of the Navy is hereby authorized to call to or continue on active service on strictly naval duties, with their consent, such numbers of the male members of the Naval Reserve Force (other than commissioned and warrant officers) as may be necessary to supply deficiencies to maintain the total authorized strength for the periods herein authorized. The foregoing total authorized strength shall include the hospital corps, apprentice seamen, those sentenced by court-martial to discharge, enlisted men of the Flying Corps, those under instruction in trade schools, and members of the Naval Reserve Force so serving. That during the fiscal year ending June 30, 1920, no member of the Naval Reserve Force shall be recalled to active duty for training or any other purpose except as hereinbefore provided: *Provided,* That the total number of officers of the line, permanent, temporary, and reserve, shall not exceed at any time, during the periods aforesaid 4 per cent of the total temporary authorized enlisted strength of the Regular and Temporary Navy and members of the Naval Reserve Force (other than commissioned and warrant officers) on active duty, and the number of staff officers shall be in the same proportion as provided under existing law: *Provided further,* That nothing herein shall be construed as affecting the permanent, commissioned, or enlisted strength of the Regular Navy as authorized by existing law.

Mr. George Huddleston, of Alabama, made the point of order that the paragraph increased the permissible strength of the enlisted personnel of the Navy and changed existing law.

The Chairman,[3] having taken the question under advisement, ruled on the following day: [4]

The gentleman from Alabama has made a point of order against the entire paragraph.

The first question relates to the fixing of the strength of the Navy. It is contended that, in consonance with a ruling made in the Fifty-third Congress (4 Hinds' Precedents, 3723), it is in order to fix the strength of the Navy in an appropriation bill. An examination of that single ruling, characterized accurately, as the present occupant of the chair thinks, by Mr. Hinds as "an exceptional ruling," impels the Chair to the belief that a decision should not be founded upon that ruling. In the judgment of the Chair, such a ruling would not be in harmony with the best line of decisions of the House, and therefore on that point alone the Chair would be unable to sustain the paragraph.

It is also contended that the Holman rule applies to this case. A casual reading of the paragraph would indicate to the contrary, because it is stated that "the total authorized enlisted strength in the active list of the Navy is hereby temporarily increased" from a certain number to another number. Upon a closer examination of the paragraph and an examination of the existing law covering the subject matter, it appears that a much larger number than the number here indicated is authorized by existing law and that such larger number is now in the Navy. In other words, the highest number mentioned here is much less than the present number now in the Navy.

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[1] Hinds' Precedents, section 3723.

[2] First session Sixty-sixth Congress, Record, p. 1092.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 1107.

Therefore the necessary effect of this provision would be to reduce the number of men in the Navy by 300,000.

The Chair is of opinion that this necessary reduction in the number of me to be paid out of appropriations carried in this bill brings the provision in question under the Holman rule and therefore overrules the point of order to this portion of the paragraph.

The point of order made against the entire paragraph, so that in accordance with the rules of the House, if a single portion of the paragraph is held to be out of order, the entire paragraph must go out.

What appears to be a second distinctive proposition begins on line 20:

"And the Secretary of the Navy is hereby authorized to call to or continue on active service on strictly naval duties, with their consent, such numbers of the male members of the Naval Reserve Force (other than commissioned and warrant officers) as may be necessary to supply deficiencies to maintain the total authorized strength for the periods herein authorized."

The gentleman from Alabama raises a point that has not been touched by any member of the committee, and yet it is the point to which the Chair gave considerable thought. That is the point as to the war being declared at an end within the year, and by reason of that the number of the Navy being reduced more than is authorized in this particular reduction. The Chair, upon examination of that question, can not believe that it is within the province of the Chair to speculate as to contingencies, as to what might happen, but that he must take the law as it exists under facts as they are at present.

Therefore, he would not be able to take into consideration the fact that something else might occur hereafter which would make this not a reduction but an increase. Upon the face of the bill and upon the laws as they now exist, this is a reduction and the Chair is prepared to hold that under the Holmes rule this is in order. The remainder of the paragraph is more or less descriptive, as it describes the classes making up the total and, so far as the Chair is able to see, is not repugnant to the rule of the House, and the point of order, therefore, is overruled.

1542. In construing the Holman rule the Chair may not speculate or surmise as to whether a particular provision might or might not operate to retrench expenditure.

Legislation proposed on an appropriation bill must indicate by its terms an unqualified reduction of expenditures to fall within the exception to the rule.

On January 7, 1920,[1] the Indian appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the act of February 8, 1887 (24 Stat. L., p.388), entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts, providing for the survey or allotment of Indian lands, $10,000: *Provided,* That no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914: *Provided further,* That any and all provisions contained in any act heretofore passed for the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the act of February 8, 1887, supra, which provide for the repayment of funds appropriated proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes, are hereby repealed: *Provided further,* That the repeal hereby authorized shall not affect any funds authorized to be reimbursed by any special act of Congress wherein a particular or special fund is mentioned from which reimbursement shall be made.

[1] Second session Sixty-sixth Congress, Record, p. 1180.

Mr. James R. Mann, of Illinois, submitted that the last two provisions of the paragraph proposed legislation without retrenchment.

The Chairman [1] said:

The gentleman from Illinois makes the point of order against that part of the paragraph on the ground that it is new legislation. The gentleman from New York, Mr. Snyder, defends this language, while admitting it is new legislation, which it clearly is, on the ground that it retrenches expenditures, and hence comes under paragraph 2 of Rule XXI, commonly known as the Holman rule. The present occupant of the chair has never been greatly enamored of the Holman rule. In so far as it may tend to retrench expenditures it may serve a wise purpose, but in so far as it may be used to authorize legislation on an appropriation bill under the guise of a retrenchment of expenditures the Chair is inclined to believe that it is unwise and should be construed strictly. In so construing the rule the Chair thinks that he is not permitted to guess or speculate as to whether or not the particular provisions under consideration may possibly retrench expenditures. It must be apparent that a saving must necessarily result. In this particular case it is contended that inasmuch as most of the funds provided are uncollectible any effort to collect them will cost more than will be realized and hence a repeal of the legal provisions for their collection will save money. The Chair thinks that such a conclusion involves a process of speculation in which he is not permitted to indulge, and under the circumstances feels constrained to sustain the point of order.

1543. In order to comply with the requirement of the Holman rule a proposition must on its face provide for a retrenchment with clearness and certainty and provision for additional revenue to be paid into the Treasury does not necessarily provide for a reduction of expenditures.

Legislation coupled with a provision reducing an appropriation but not directly contributing to the reduction was held not to be in order on an appropriation bill.

On January 26, 1920,[2] the diplomatic and consular appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the paragraph providing for expenses of enforcing provisions of the passport-control act.

Mr. Tom Connally, of Texas, proposed this amendment:

Provided, That a fee of $5 shall be collected for each citizen's passport issued from the Department of State, and a similar fee for each visa by United Sates diplomatic or consular officers on each foreign passport, to be applied by the Secretary of State to create a fund for the carrying into effect of the purposes of this paragraph and the reduction of the sum therein appropriated.

A point of order on the amendment by Mr. Nicholas Longworth, of Ohio, was sustained by the Chairman,[3] as follows:

The law now provides that a fee of $1 shall be charged and collected for each passport issued from the State Department. We have before us the paragraph of the bill providing for the expenses of regulating entry into the United States in accordance with the provisions of an act passed on the 22d of May, 1918, and to carry that act into effect. That act provides that the power shall be given to the Secretary of State to regulate the issuance of passports and, as the Chair understands it, in a measure to limit the number of people who enter the United States. The

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 2087.

[3] Martin B. Madden, of Illinois, Chairman.

gentleman from Texas proposes an amendment now to the appropriation which is made to carry out the provisions of that act, which amendment provides that a fee of $5 shall be collected for each passport issued by the Department of State, and he contends that if the amendment is adopted it will reduce the amount of the appropriation on its face.

Clause 2 of Rule XXI of the House provides that—

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The law further provides that no such amendment shall be in order unless reported by a committee of the House having jurisdiction over the subject.

It must be apparent to the members of the committee that there is nothing on the face of this amendment to indicate a reduction in the amount of the appropriation. Of course, it is true that if the amendment should be adopted it would raise revenue, but the revenue would go into the Treasury to the credit of the general fund, and there is nobody here wise enough to say what that revenue would be appropriated for. It might not be appropriated for the payment of the expenses of the State Department at all; and on the face of the facts as the Chair sees them, he can not see any possibility of the reduction of the amount of the appropriation on its face resulting from the amendment of the gentleman from Texas nor can it be said that it will even increase the amount covered into the Treasury. The Chair therefore sustains the point of order.

The bill having been reported to the House and read a third time, Mr. Connally, offered the following motion:

Mr. Connally moved to recommit the bill to the Committee on Foreign Affairs with instructions to that committee to report the same back forthwith with the following amendments: Strike out "$250,000" and insert "$200,000"; and add the following:

"Provided, That a fee of $5 shall be collected for each citizen's passport issued from the Department of State, and a similar fee for each visa by the United States Diplomatic and Consular officer on each foreign passport, to be applied by the Secretary of State to create a fund for carrying into effect the purposes of this paragraph and the reduction of the same therein appropriated."

Mr. Longworth interposed a point of order, and the Speaker [1] ruled:

It is argued that this amendment, which is clearly legislation and therefore out of order, is in order by the terms of the Holman rule. That rule provides—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States."

This amendment certainly does not do that. Again—

"By the reduction of the compensation of any person paid out of the Treasury of the United States."

This certainly does not do that. Then again—

"Or by the reduction of amounts of money covered by the bill."

It must be then under that third clause of the rule that this must be sustained, if sustained at all. It is well settled that the amendment must clearly and certainly and necessarily cause a reduction. But it seems to the Chair that it is impossible for the Chair to be sure that this amendment really and finally reduces the amount of money appropriated in this bill.

To be sure the appropriation is reduced from $250,000 to $200,000 on its face; that brings it within the Holman rule. But while the face of the appropriation is thus reduced on the one

[1] Frederick H. Gillett, of Massachusetts, Speaker.

hand, on the other hand an indefinite increase of the appropriation is made. By the terms of the amendment it is provided that an additional fee—in other words, additional revenue—shall be provided, which shall be put into the same fund from which this appropriation is drawn and which increases that fund by the amount derived from the tax. How much money that tax will produce no one has estimated. Therefore, whether that fund will be larger or smaller than it is now, after this money is collected, it is impossible for the Chair to tell. It may be $200,000; it may be $400,000.

It does not seem to the Chair that it is a fair interpretation of the Holman rule to say that by creating a new source of revenue and making a specific appropriation of that revenue and at the same time reducing the amount which was before appropriated a real reduction of appropriation is affected. Certainly you are not sure that any economy is secured. The expenses of the United States are not necessarily reduced in any way. On the contrary it may very well increase them because if the sum is larger than the original appropriation, then the department has so much more to spend and the outlay of the department would be so much larger. It seems to the Chair that this is not an economy, but on the other hand it might, under the guise of economy, be a very large increase in the expense. It is a novel suggestion that new taxes are economy or lead necessarily to a reduction of expenses. The Chair thinks the amendment does not necessarily reduce the appropriation of this bill and sustains the point of order.

1544. In deciding a question of order raised against a legislative proposition offered on an appropriation bill, the Chairman may not take into consideration opinions by officials or others as to whether it will bring about a retrenchment of expenditures, and unless the proposal shows on its face a positive and definite reduction of expenditures, the point of order will be sustained.

On February 2, 1920,[1] the efficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

For compensation to assistant postmasters at first and second class offices, $350,000.

Mr. Eugene Black, of Texas, offered the following amendment:

Provided, That the tenth provision of section 2 of an act making appropriation for the service of the Post Office Department for the fiscal year ending June 30, 1920, and for other purposes, is hereby amended so that it will hereafter read as follows:

"*Provided further,* That no assistant postmaster or supervisory official at offices of the first class shall receive a less salary than $100 per annum, including the increase herein provided, in excess of the sixth-grade salary provided for clerks and carriers in the City Delivery Service, nor shall an assistant postmaster at any office of the second class be paid a less salary, including the increase herein provided, than that paid the highest-salaried clerk or letter carrier employed in such office."

A question of order being raised against the amendment by Mr. James W. Wood, of Iowa, Mr. Black argued:

I think the Chair will find that it will bring about a reduction in salary, and in this way: The section itself recites the increases that are given to assistant postmasters, which, as I have stated to the Chair, are $200 per annum where the annual salary does not exceed $2,200 per annum and 5 per cent increase where the salary exceeds $2,200 per annum. Now, after providing for that increase, the committee added the tenth proviso, which said that even after the assistant postmaster has received the increase, he shall still receive a salary which shall not be less than that paid to the highest paid clerk or carrier in a second-class office.

[1] Second session Sixty-sixth Congress, Record, p. 2378.

Now, what was the effect of that? The effect of that was to guarantee that no assistant postmaster should receive a less salary than $1,500 at a second-class office. The comptroller has construed that. He has ruled that by reason of not adding the proviso which I have added here, viz, "including the increases provided herein." That the language of the original proviso must be construed to refer to the basic salary.

By adding, as I have added in this amendment, the words "including the increases herein provided," then the Chair is bound, in finding out whether the assistant postmaster's salary shall be equal to the highest paid employee to include the increases that are provided in section 2, whereas under the present text to section 2 he does not have to include those increases.

The Chairman [1] decided:

It is conceded that this is new legislation and that such is the purpose of it, so that if the amendment is in order it must be under section 2 of Rule XXI, known as the Holman rule. In order to bring itself within the provisions of the Holman rule, it having been offered by a Member from the floor, it must be germane to the subject matter of the bill and must retrench expenditures, either by reducing the number of salary of officers of the United States, by a reduction of the compensation of any person paid out of the Treasury of the United States, or by a reduction in the amount of money covered by the bill. It is difficult for the Chair to determine, in fact it would be a matter of conjecture so far as the Chair is concerned, whether the effect of the amendment would be a retrenchment of expenditures or not. At any rate, it does not appear upon the face of the amendment that it retrenches in either of the required ways. After hearing the gentlemen who know more about the Postal Service than the present occupant of the Chair, the Chair is still very much in doubt as to whether it will make any retrenchment whatever.

By permission of the committee the Chair submits two brief excerpts from rulings made by the gentleman from Georgia, Mr. Crisp.

On March 1, 1916, in construing the Holman rule, Chairman Crisp said:

"The Chair does not believe that the opinion of some one that the amendment might reduce and the opinion of another that it might not is legitimate for the Chair to consider, but the Chair must determine from the amendment itself whether or not its natural consequence is to reduce expenditures."

Later on, the same day, when the same matter was offered in a different form, Chairman Crisp said:

"The Chair is of the opinion that the amendment must show on its face that it does perform one of the functions required under the rule to make it in order."

The fact that the gentleman is offering this amendment as a Member of the House and not by order of the Committee on Post Offices and Post Roads limits the application of the Holman rule to a considerable extent. Even upon the able statement of the gentleman from Texas, the Chair does not yet think it clear that the amendment brings itself under the provisions of the Holman rule, and therefore sustains the point of order.

1545. To fall within the exception to the rule forbidding legislation on an appropriation bill, a proposition must show on its face a definite and positive retrenchment of expenditures.

On April 28, 1921,[2] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read:

That no part of the appropriations made in this act shall be available for the salary or pay of any officer, manager, superintendent, foreman, or other person having charge of the work of any employee of the United States Government while making or causing to be made with a stop watch or other time-measuring device a time study of any job of any such employee between the starting and completion thereof, or of the movements of any such employee while engaged upon such work; nor shall any part of the appropriations made in this act be available to pay any pre-

[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 764.

miums or bonus or cash reward to any employee in addition to his regular wages, except for suggestions resulting in improvements or economy in the operation of any Government plant; and that no part of the moneys appropriated in each or any section of this act shall be used or expended for the purchase or acquirement of any article or articles that, at the time of the proposed acquirement, can be manufactured or produced in each or any of the Government navy yards of the United States, when time and facilities permit, for a sum less than it can be purchased or acquired otherwise.

Mr. Harry E. Hull, of Iowa, proposed an amendment as follows:

and that all orders or contracts for the manufacture of material pertaining to approved projects heretofore or hereafter placed with government-owned establishments shall be considered as obligations in the same manner as provided for similar orders placed with commercial manufacturers, and the appropriations shall remain available for the payment of the obligations so created as in the case of contracts or orders with commercial manufacturers.

Mr. Patrick H. Kelley, of Michigan, made the point of order that the amendment involved legislation without retrenching expenditures.

Mr. Hull said:

For only a few minutes. The Chairman understands the Holman rule, and any legislation which will reduce expenses is clearly in order. This is reducing expenses, according to the navy yard's own statement. Take it in connection with the preceding section. If they can manufacture for less than they can purchase, they can use the appropriation. It has been held in order on the Army bill.

The Chairman [1] ruled:

The gentleman from Iowa offers an amendment to the paragraph of the bill which provides—

"That all orders or contracts for the manufacture of material pertaining to approved projects heretofore or hereafter placed with government-owned establishments shall be considered as obligations in the same manner as provided for similar orders placed with commercial manufacturers, and the appropriation shall remain available for the payment of the obligations so created as in the case of contracts or orders with commercial manufacturers."

Well, in the opinion of the Chair, that might result in a saving or it might result in a loss; there is nothing upon the face of the amendment itself to make it clear that it will result and most finally result in a retrenchment of expenditures. Furthermore, of course, it is permanent legislation and authority to the paragraph of the bill where it is offered. The Chair has carefully read the language which precedes it in conjunction with the amendment and can not hold that the amendment on its face will result in a retrenchment of expenditures, and therefore sustains the point of order.

1546. Provision for reduction of expenditures does not admit accompanying legislation not directly contributing to the reduction and essential to its operation.

On March 26, 1924,[2] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the paragraph appropriating $16,400,000 for Army transportation was reached.

Mr. Carroll B. Reece, of Tennessee, offered the following amendment:

Strike out the figures "$16,400,000" and insert "$16,395,000: *Provided,* That the Secretary of War be and is hereby, directed and authorized to transfer to the Department of Agriculture, under the provisions of sections 7 of the act approved February 28, 1919, entitled 'An act making

[1] Joseph Walsh, of Massachusetts, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 5046.

appropriations for the service of the Post Office Department for the fiscal year 1920, and for other purposes,' and acts amendatory thereto, for use in improvement of highways and roads, the following was materials, equipment, and machinery out of the reserve stocks, to wit: One thousand five hundred 5-ton caterpillar tractors, with tools and spare parts; 5,000 motor trucks, 1 to 5 tons capacity; and 500 ordnance mobile machine shop trucks, with tools and spare parts."

Mr. L. J. Dickinson, of Iowa, made the point of order that the amendment involved legislation and did not come within the requirements of the Holman rule.

The Chairman [1] said:

The amendment of the gentleman from Tennessee actually reduces the appropriation covered by the bill, which is the third provision of the Holman rule. It reduces the amount covered by the bill by $5,000, but the legislation proposed in the amendment which follows is not necessary and is not related to the reduction in the appropriation. It is new legislation, of course, and the only question is whether or not it comes under the third provision of the Holman rule by reducing the amount of money covered by the bill, which, as a matter of fact, it does.

The Chair is not convinced that the gentleman's amendment really makes any retrenchment at all, and, of course, if the reduction in the amount covered by the bill is purely an arbitrary reduction, with no relation to the legislation carried, the Chair would not be able to hold it in order.

The amendment seems to do no more than to transfer the property from one department to another. Therefore it does not appear on the face of it that the legislation would have the effect of reducing or retrenching expenditures, although it does reduce the amount carried in the bill. To be in order it must be such an amendment as to retrench expenditure. There is where the gentleman fails to connect up the legislation.

In order to make an amendment in order under the Holman rule the gentleman must comply with the requirements that it be germane to the subject matter of the bill and shall retrench expenditures in one of three ways, one of which is by a reduction of the amount of money carried in the bill. Now, the gentleman complies with the latter portion, but whether the retrenchment is an actual fact or not is a question.

The Chair is unable to so connect the proposed legislation with the reduction of the appropriation as to bring the legislation under the Holman rule, and therefore sustains the point of order.

1547. An amendment proposing coinage of bullion into silver dollars, the cost to be paid from seigniorage, offered to an item in an appropriation bill providing for recoinage of uncurrent fractional silver, was held not to be in order under the Holman rule because not germane and not retrenching expenditure, the seigniorage being the property of the Government.

An amendment reducing the figures of an appropriation, but adding unrelated legislation was held not to retrench expenditures in the sense contemplated by the rule.

On May 18, 1892,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Recoinage of silver coins: For recoinage of the uncurrent fractional silver coins abraded below the limit of tolerance in the Treasury, to be expended under the direction of the Secretary of the Treasury, $100,000.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Fifty-second Congress, Record, p. 4439.

Mr. Richard P. Bland, of Missouri, offered an amendment striking out "100,000" and adding the following:

And for the coinage of all silver bullion purchased and now in the Treasury into standard silver dollars, the cost of the coinage herein provided for to be paid out of the seigniorage or gain to be covered into the Treasury as available revenue.

Mr. Nelson Dingley, jr., of Maine, made the point of order that the amendment was not germane and provided new legislation.

After taking the question under advisement, the Chairman[1] ruled on the following day:

That the amendment changes existing law is conceded, and it is therefore not in order unless admissible under the last clause just read by the Chair, viz:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

It is necessary, therefore, only to consider, first, whether this amendment is germane to the pending bill, it being conceded that it is in violation of existing law; and, secondly, whether, if it be germane to the bill, it does reduce the amounts covered by the bill.

Is the amendment germane? If it is not, of course it makes no difference whether it reduces expenditures or not. Under the rule it is not permissible. What is the subject matter of this provision in the bill? The Chair thinks that the subject matter is the appropriation of an amount of money for the purpose of redeeming the fractional currency of the country, and for this purpose authorized by law to recoin uncurrent coin. This amendment, however, provides for the coinage of the silver bullion now in the Treasury, purchased under the provisions of the act of 1890, which prescribes when and how that bullion shall be coined.

The Chair can hardly see where this amendment is germane to the subject matter originally in this bill, the subject matter being what the Chair has already stated. The subject matter of the amendment—for what purpose the bullion is to be coined—does not appear on the face of the amendment. It appears from the amendment itself that it is simply a provision to coin, and the Chair supposes the effect of the adoption of the amendment would be to authorize the coinage of the bullion, which would still remain in the Treasury where it now is. The amendment provides simply that it is to be coined into standard silver dollars.

The law authorizing the redemption of the fractional silver coin does not provide for the object sought to be attained by the amendment, but it does provide that this coin shall be in fractional pieces—subsidiary coin of a specified character. The Chair, therefore, hardly thinks the amendment is germane to the subject matter of the bill.

But does the amendment reduce expenditures by the reduction, in the language of the rule, of the amounts of money covered by the bill? The amount of money covered by the bill in the paragraph under consideration is $100,000 to be used in the recoinage of this abraded coin reduced below the limit of tolerance. The amendment strikes out that provision of $100,000, and is an apparent reduction; but it leaves the object or purpose of the section remaining in the bill without an appropriation, and then proceeds to make provision for an appropriation of money to provide for not only the coinage of the uncurrent fractional silver, but also and mainly, for the coinage of the bullion, mentioned in the amendment, into standard silver dollars. It provides for the cost of this coinage, viz, that it is to be paid out of the seigniorage or gain to the Government in the coining of the silver bullion into dollars.

The remainder of such seigniorage or gain, after providing for the coinage, is to be covered into the Treasury as available revenue. What is the seigniorage on this bullion that is now in the Treasury? The difference between the cost price of the bullion and the value of the standard

[1] Rufus E. Lester, of Georgia, Chairman.

silver dollar, whatever that may be. There are, as the Chair understands it, something like one hundred millions of silver bullion in the Treasury to which this amendment would be applicable, and the coinage of that amount of bullion into silver dollars would cost, the Chair is informed, perhaps a million dollars. That is to be taken out of the seigniorage which belongs to the Government, and requires an act of appropriation to do it. It is provided in the amendment that the seigniorage shall be appropriated for that purpose—that is to say, for the coinage; and the balance of it, supposing of course that there will be a balance remaining, is to be paid into the Treasury as part of the funds of the Treasury.

Now, it requires $100,000, according to the bill, to recoin the abraded coins. Out of the seigniorage this is to be provided for. That is at least $100,000, and the appropriation to pay the expenses of the coinage of this immense amount of bullion is also made. The Chair can not see how striking out of the bill the amount of $100,000, and placing upon it by way of amendment a larger sum, could be called the reduction of the amount covered by the bill. Besides, the Chair thinks that if an amendment which is obnoxious to the provisions of the rule changing existing law is offered, it should appear by the amendment itself, or in some way it should appear that the amendment, although contrary to existing law—changing existing law—reduces expenditures. The Chair finds that it does not so appear on the face of the amendment; and from his general knowledge of the fact, and the subject matter to which the amendment belongs, the Chair thinks it would largely increase the expenditures and necessitate the appropriation of a greater amount for the purpose of doing this work than is originally provided in the bill.

The Chair therefore sustains the point of order against the amendment.

The Chairman having ruled, Mr. Bland immediately offered this amendment:

Provided, That the cost of the coinage shall not exceed $95,000, $5,000 of which shall be used for recoinage of subsidiary silver coins and $90,000 for standard silver dollars.

Mr. Dingley raised the same point of order made against the first amendment. The Chairman ruled:

The Chair ruled this morning that an amendment offered by the gentleman from Missouri adding an amendment to the section here in question, providing for coinage of silver bullion, purchased and now in the Treasury, into silver dollars, was not germane to the paragraph of the bill, and discussed the reasons why the Chair thought so. There is no reason why they should be repeated now, as the House understands precisely what the Chair said.

The Chair has heard no reason given to this House to change his opinion in that respect. That amendment not being germane to the subject, of course a proviso offered to it by way of amendment to that amendment can not cure that defect. Besides that, on the question of an appropriation, the question is whether or not an amendment proposed reduces the appropriation or amount of money covered by the bill. The object evidently of the rule was to retrench expenditures.

"That an amendment shall retrench expenditures by the reduction in the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the amounts of money covered by the bill."

This section refers to a retrenchment of expenditures and a retrenchment by reduction of the amount covered by the bill. Now, it does seem to the Chair that if a bill makes an appropriation, say, of $50,000 for a certain object, and an amendment strikes out $50,000 for this object, but adds, say, $40,000 for another object, it does not retrench expenditures in the sense of the rule, because it would be adding a new object of expense.

Therefore the Chair thinks that this does not come within the rule.

1548. An amendment proposing legislation on the appropriation bill and retrenching expenditure must be germane.

On June 3, 1892,[1] the post office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The Clerk read

[1] First session Fifty-second Congress, Record, p. 5038.

a paragraph providing for transportation of ocean mails and reappropriating unexpended balances for that purpose.

Mr. George D. Wise, of Virginia, offered an amendment striking out the provision for reappropriation of unexpended balances and inserting the following:

And the act entitled "An act to provide for ocean mail service between the United States and foreign ports and to promote commerce," approved March 3, 1891, is hereby repealed.

Mr. Eugene F. Loud, of California, made the point of order that the amendment proposed to change existing law.

Mr. Wise submitted:

It reduces expenditures by force of the amendment itself. I ask the Chair to look at the amendment. All of the appropriations of unexpended balances contained in those lines are thus proposed to be stricken out, so that the amount carried by the bill is materially reduced by this amendment. A proposition to repeal the subsidy act is connected with a proposition to reduce the amount covered by the bill.

Upon request of the Chairman, a decision on the point of order was deferred until the following day in order to permit an examination of rulings cited on similar points of order. On the following day, the Chairman [1] said:

The Chair with the consent of the committee, will return to the paragraph which was passed over yesterday upon the point of order made against the amendment offered by the gentleman from Virginia, Mr. Wise.

The Chair has taken occasion since this amendment was last before the Committee of the Whole to examine such decisions as he could find of previous occupants of the chair on propositions of this kind, as also to consider the point of order on its own merits.

The ruling made by the gentleman from Virginia, Mr. Buchanan, at an earlier stage of this bill, which was sustained on appeal by the committee is justified by other reasons than such as exist in the present case. The Chair holds that it is not in order under the provisions of Rule XXI to offer an amendment to an appropriation bill consisting of two independent propositions, one of which can be brought within the rule as being germane and tending to reduce expenditures, while the other is a distinct and substantial proposition not allowable under the rule. Otherwise any new legislation might be offered by way of such amendment by merely putting in front of it a proposition to omit or to reduce an appropriation carried in the bill. The Chair is therefore constrained to sustain the point of order.

1549. On December 16, 1911,[2] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The following paragraph was read:

For mileage of Representatives and Delegates, and expenses of Resident Commissioners, for the second session of the Sixty-second Congress, $154,000.

To this paragraph Mr. John N. Garner, of Texas, offered an amendment as follows:

The appropriation of $11,340, made in the legislative, executive, and judicial appropriation act for the fiscal year 1912, for pay of nine clerks to committees of the House of Representatives, at $6 per day each during the session, or so much thereof as may be necessary, is made available for the payment of not exceeding eight clerks to committees, at the rate of $125 per month, from the date of their assignment by order of the House until the close of the present session of Congress.

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[1] John A. Buchanan, of Virginia, Chairman.

[2] Second session Sixty-second Congress, Record, p. 442.

Mr. James R. Mann, of Illinois, made the point of order that while the amendment proposed to retrench expenditure it was not germane.

The Chairman [1] ruled:

The part of the rule upon which the gentleman from Texas relies reads as follows:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill."

The Chair assumes that the gentleman relies upon the second classification. In the opinion of the Chair, however, amendments such as proposed by the gentleman from Texas, Mr. Garner, must not only show on their face to be an attempt to reduce expenditures or to retrench, but must also be germane to some provision in the bill. In the opinion of the Chair, this amendment, offered as it is, as a separate paragraph to the urgent deficiency bill, is not germane. Therefore, the Chair sustains the point of order.

1550. In order to comply with the provisions of the Holman rule, an amendment may include only such legislation as is directly instrumental in accomplishing the reduction of expenditures proposed.

On January 6, 1921,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. The section providing for expenses of United States district courts having been reached, the Clerk read:

For fees of jurors, $1,150,000.

Mr. Marvin Jones, of Texas, offered this amendment:

Strike out the figures "$1,150,000" and insert in lieu thereof the following: "$575,000: *Provided,* That for the current fiscal year all petit juries for the trial of cases in the district courts of the United States in civil matters shall be composed of 6 instead of 12 persons, as now provided by law, and the jury panels and the number of peremptory challenges which each party is entitled to in any civil case is hereby reduced by one-half the number now provided."

Mr. James W. Good, of Iowa, objected that the amendment proposed legislation on an appropriation bill and was not authorized by law.

The Chairman [3] held:

The Chair has examined the amendment offered, and while it does reduce expenditures and provide for legislation to make effectual the reduction of expenditures, it also embraces other legislation, which is a change of existing law, and it is not germane to the paragraph inasmuch as it affects the number of peremptory challenges to which the Government is entitled. The Chair therefore, sustains the point of order.

1551. On February 21, 1917,[4] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read this paragraph:

Engineer operations in the field: For expenses incident to military engineer operations in the field, including the purchase of material and a reserve of material for such operations, the

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[1] William Hughes, of New Jersey, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 1058.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] Second session Sixty-fourth Congress, Record, p. 3825.

construction or rental of storehouses within and outside the District of Columbia, the purchase, operation, maintenance, and repair of horse-drawn and motor-propelled passenger-carrying vehicles, and such expenses as are ordinarily provided for under appropriations for "Engineer depots," "Civilian assistants to engineer officers," and "Maps, War Department," $150,000.

Mr. Nicholas Longworth, of Ohio, offered the following amendment:

Strike out "$150,000" and insert in lieu thereof the following: "$140,000, and that section 124 of an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, is hereby repealed."

Mr. Hubert S. Dent, jr., of Alabama, made the point of order that the amendment was new legislation and was not germane to the paragraph to which offered.

The Chairman [1] held:

The amendment submitted by the gentleman form Ohio contains two parts, one a proposition to reduce the amount appropriated in the bill from $150,000 to $140,000, the other a proposition for the repeal of a section of existing law. It is insisted that this amendment is in order under the Holman rule. The Chair has had occasion heretofore to construe this rule on various occasions, and in these rulings has been disposed to give the rule a liberal interpretation. But this latitude of interpretation has never been stretched to mean that a motion to reduce an appropriation makes in order an unrelated and ungermane proposition of accompanying legislation. The principles announced in the decisions cited do not support the contention that the amendment of the gentleman from Ohio, is in order. The motion to reduce the amount appropriated, is in order without regard to the accompanying repealing legislation. It is plain that the proposed reduction does not flow from the proposed legislation. It is not in any wise related to it, much less a necessary product of it. It is in order as a separate proposition on its own merits, and the fact that it is coupled with unrelated legislation, does not operate to make that legislation in order.

What would be the effect of the legislative part of the amendment if adopted? The answer is that this repealing amendment, if adopted, would effect a great reduction of general expenditures, but it does not follow therefrom that this legislation is therefore in order, as an amendment. What is the connection between the two propositions embraced in the amendment? As pointed out heretofore, they are unrelated, while the precedents require that there must be some necessary relationship between the legislation proposed and the reduction to be effected in the expenditures comprehended in the bill under consideration. The amount carried in the bill can be reduced by a motion to that effect, which as an independent proposition will be in order. This reduction relates to the expenditures in the bill. But the reduction intended to be effected by the repealing legislation is outside of the bill. The Holman rule requires that amendatory legislation on an appropriation bill must not only effect a retrenchment in the expenditures carried in the bill but must be germane to the bill. To what language in the paragraph under consideration is the proposed legislation germane? In this connection the Chair will call attention to the language of the paragraph—

"For expenses incident to military engineer operations in the field, including the purchase of material, etc., and such expenses as are ordinarily provided for under appropriations for engineer depots, civilian assistants to engineer officers, and 'maps, War Department.'"

How can it be argued that a proposition of legislation which proposes to repeal the nitrate plant section of the act of 1916 is germane to the language cited? It has already been pointed out that an independent proposition of legislation can not by mere association with an unrelated proposition to reduce an item in a bill be thereby rendered in order. If this proposition of legislation effected the reduction proposed and was germane to the bill under consideration, it would fall within the principle of the Holman rule, and be in order. Plainly, however, this legislation, is neither germane to the paragraph nor related to the motion to reduce the appropriation in the bill from $150,000 to $140,000. The point of order is sustained.

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[1] Edward W. Saunders, of Virginia, Chairman.

1552. By exceptional rulings, amendments to appropriation bills repealing existing law have been held in order as retrenchments of expenditure.

On June 21, 1912,[1] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000: *Provided,* That in addition to the persons named in the said sundry civil act the Speaker of the House of Representatives shall be a member of the commission constituted to acquire said land, and hereafter any three members thereof shall constitute a quorum and be competent to transact the duties devolving on them.

Mr. Thomas U. Sisson, of Mississippi, reserved a point of order on the paragraph, while Mr. Thetus W. Sims, of Tennessee, made a point of order on the proviso.

The Chairman,[2] having sustained the point of order against the proviso, Mr. Sisson submitted that if a portion of the paragraph was subject to a point of order the whole of it was out of order and the entire paragraph was stricken from the bill.

Thereupon Mr. John J. Fitzgerald, of New York, offered the following amendment:

Enlarging the Capitol Grounds: To continue the acquisition of land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act for enlarging the Capitol Grounds, $500,000.

As a substitute for this amendment, Mr. Sisson then proposed an amendment to repeal the law authorizing the appropriation.

Mr. James R. Mann, of Illinois, raised a point of order against the amendment proposed by Mr. Sisson and said:

This is not an amendment to any item in the bill, hence it could not reduce any amount carried by the bill. The provision in the bill has gone out on a point of order and is not part of it.

The original provision in the bill for enlarging the Capitol Grounds was ruled out by the Chair on a point of order, and that ruling is to the effect that it never was a part of the bill. The gentleman understands that when the Chair rules a portion of a bill out on a point of order it is as though it never had been in the bill.

Now, there is no amount carried by the bill for his item for this purpose. Hence no amendment can reduce the amount carried by the bill, because the bill does not carry anything.

An amendment offered from the floor is quite a different thing. There is no provision in the rules against offering an amendment from the floor. The gentleman evidently had in mind that the item in the bill remained in the bill, carrying an appropriation of $500,000, and this would reduce that. But this proposition comes now as thought that item had never been in the bill, because it was in there contrary to the rule. That has been stricken out, not by the committee, not by the House, but by the Chairman, on the point of order. The amendment offered by the gentleman also, even if the original item were in the bill, is not germane.

One word more. Supposing on any appropriation bill which comes before the House there is no item in the bill then relating to a matter, and suppose some gentleman on the floor offers an amendment to make an appropriation. Does anyone contend that the mere offering of that

[1] Second session Sixty-second Congress, Record, p. 8420.

[2] Ben Johnson, of Kentucky, Chairman.

amendment from the floor permits the House, under the rules, to repeal any law relating to the subject matter of that amendment? That would permit any legislation upon an appropriation bill at any time. It would permit the offering and the voting on any legislation at the whim of any two gentleman in the House, because there is no way of preventing a man from offering an amendment for an appropriation, and then anyone can offer an amendment to repeal an act of legislation on the subject that brings the legislation before the House without consideration by a committee on anybody else.

Now, the purpose of these rules is to prevent the bringing up of matters which have received no consideration, to prevent the throwing into the House of propositions on which gentlemen are not prepared to vote or to intelligently understand without proper consideration. But if the Chair makes the precedent that any Member on the floor, by offering an amendment for an appropriation, thereby throws open the door to legislation by cutting out that amendment as a substitute, there is no limit to what can be done and no protection under the rules.

The House is not required to vote in the item because it is offered on the floor. The Committee on Appropriations does not have jurisdiction over the legislation. Under the claim of the gentleman from Mississippi, if it be allowed, there would be no use for any other committees than the Committee on Appropriations; there would be no use to consider any bills except appropriation bills, because any Member by offering an amendment to make an appropriation could throw the whole subject matter involved in the amendment or in the law authorizing the appropriation open to consideration upon the floor. There is another provision of the Holman rule:

"Provided, That is shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures."

If the reference of this bill to the Committee on Appropriations gave jurisdiction to that committee over the subject matter this matter could be brought before the House upon the report from the Committee on Appropriations recommending the enactment of the legislation.

Take, for instance, the ordinary case. The Committee on Appropriations has jurisdiction over the appropriations for the District of Columbia. The Committee on the District of Columbia has jurisdiction over legislation. Now, will the gentleman from Mississippi contend that because the Appropriations Committee has jurisdiction over appropriations for the District and reports the District appropriation bill I can offer an amendment on the floor of the House to make an appropriation, and thereupon he can move to substitute for that legislation relating to the District of Columbia? For instance, here is a pat case that may come up. We appropriate in the District bill for the execution of the excise laws. Suppose I offer an amendment in reference to the excise laws. Does the gentleman think that upon that amendment, without the report of a committee, without the consideration of a committee, he can offer an amendment fixing the rate of excise, the rate of license under the excise laws, so as to reduce expenditures?

It would be a reduction of the expenses, because you reduce the amount of expenses. There is no limit. If the gentleman's contention should prevail, any Member on the floor, by the offering of an amendment on the District appropriation bill, could throw into the House the consideration of any legislation relating to the District of Columbia without any reference to the Committee on the District of Columbia at all.

Suppose we had under consideration the general deficiency bill, which authorizes an amendment to any service in the Government as a deficiency, and some Member offers an amendment to the deficiency bill. Does the gentleman contend, then that the offering of that amendment would authorize some one else to offer as a substitute a proposition to repeal the law creating the Army?

The rules are designed to prevent forcing the House to vote on a proposition which is under consideration.

Mr. Swagar Sherley, of Kentucky, argued in support of the point of order:

If the gentleman will permit, if that reasoning of the gentleman advocating the amendment is accurate all you have to do under the guise of the Holman rule is to offer an amendment repealing every office that exists under the Government.

The Chairman [1] ruled:

The bill as presented to the House contains this paragraph:

"Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000: *Provided,* That in addition to the persons named in the said sundry civil act the Speaker of the House of Representatives shall be a member of the commission constituted to acquire said land and hereafter any three members thereof shall constitute a quorum and be competent to transact the duties devolving on them."

As to that paragraph the gentleman from Tennessee reserved a point of order as to all that which comes after the word "*Provided.*" The gentleman from Mississippi reserved and made a point of order to the entire paragraph. The Chair, in ruling, overruled the point of order to everything in the paragraph before the word "*Provided*" and sustained the point of order for everything that followed the word "*Provided.*" When that ruling was made, that entire paragraph was then out of the bill for every purpose.

The gentleman from New York, Mr. Fitzgerald, then offered the following as an amendment to the bill:

"Enlarging the Capitol Grounds: To continue the acquisition of land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000."

Thereupon the gentleman from Mississippi offered as a substitute to that amendment repealing the act referred to in the amendment which authorized the appropriation of $500,000.

The question is now raised upon a point of order as to whether the substitute offered by the gentleman from Mississippi is permissible under what is commonly known as the Holman rule, which is section 2 of Rule XXI, and which reads as follows:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law unless in continuation or appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures, by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject of the bill, shall retrench expenditures."

The Chair thinks that nothing which comes in the above rule after the work "*Provided*" need be considered in determining the point of order. The question hinges solely upon that part of the Holman rule which is quoted which comes before the word "*Provided.*" The pertinent part of that section of the Holman rule reads as follow:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The first question which arises is: Can there be legislation in an appropriation bill under that part of the rule which I have just read? It seems quite evident to the Chair that under the rule there can be legislation, because the rule says—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except"—

and so forth. That clearly implies that existing law may be changed because of the use of the words therein, "changing existing law."

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[1] Ben Johnson, of Kentucky, Chairman.

If existing law can be changed, under the rule it must be germane, and so the next question arises as to whether or not the substitute offered by the gentleman from Mississippi is germane to the amendment offered by the gentleman from New York.

We are all familiar with the meaning of the word "germane," in its legislative sense at least, but inasmuch as a dictionary lies on the table before the Chair, the Chair has taken occasion to get the definition from that, and the definition that it gives is—

"Any close relationship to."

The amendment offered by the gentleman from New York, treats of the act approved June 25, 1910, which authorizes this appropriation. The substitute offered by the gentleman from Mississippi proposes to repeal the act which is mentioned in the amendment offered by the gentleman from New York.

The Chair is of opinion that there is such a close relationship between the two that the substitute offered by the gentleman from Mississippi in treating of the act of June 25, 1910, is germane to the amendment offered by the gentleman from New York in treating of the same act—that of June 25, 1910.

The Chair is, up to this time, of the opinion that under the Holman rule there is a right to change existing law provided it is germane; and provided, further, it meets any one of the other conditions set out in the rule. The Chair first rules that the substitute offered to the amendment is germane. Before the substitute can be held to be subject to a point of order, or that it is not subject to a point of order, other parts of the Holman rule must be applied to the item as tests. If existing law can be changed in an appropriation bill provided it is germane, it must have one or the other of the additional qualifications. It must, in one instance, in addition to being germane, retrench expenditures by the reduction of the number and salary of the officers of the United States. The substitute offered by the gentleman from Mississippi to the amendment does not meet that requirement of the rule. Next, in order that it may be in order the substitute offered by the gentleman from Mississippi must be a reduction of the compensation of any person paid out of the Treasury of the United States. It does not come under that requirement of the rule. The Chair is of the opinion, however, that it does come under the next requirement, which reads as follows:

"Or by the reduction of the amounts of money covered by the bill."

The Chair first holds that existing law under the Holman rule can be changed, provided it is germane, and the Chair holds that it is germane. Further, that it is good provided it reduces the amount of money covered by the bill. The Chair holds that it does reduce the amount of money covered by the bill to the extent of $500,000.

Now as to the suggestion made by the gentleman from Kentucky, Mr. Sherley, that if the contention of the gentleman from Mississippi were correct all offices could be abolished. The Chair is not called upon to decide that point and will not do so; but, in passing, it may be remarked that there is a provision in the Holman rule for the reduction of the number and salary of officers of the United States. If the Chair were called upon to decide that point he would, as on the present occasion, decide it just as he has the point which is now raised.

The amendment offered by the gentleman from New York treats of the act approved June 25, 1910, which authorizes the expenditure of $500,000 a year for the enlargement of the Capitol Grounds. The gentleman from Mississippi has offered a substitute for the repeal of that act. Now, the gentleman from Mississippi, in offering his substitute, did not refer to the act by its title and date of its approval, but he did more than that, he referred to it by its title, the date of its approval, and then quoted every word of the act, so it occurs to the Chair there is no escape under the conditions from the conclusion that the substitute is germane to the act. The Chair overrules the point of order.

1553. On February 25, 1920,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. A paragraph providing for enforcement of the national prohi-

[1] Second session Sixty-sixth Congress, Record, p. 3473.

bition act was read, when Mr. William L. Igoe, of Missouri, offered the following amendment:

Strike out the paragraph and insert in lieu thereof the following:

"The national prohibition act, being Public, No. 66, Sixty-sixth Congress, is repealed on and after July 1, 1920."

Mr. Thomas U. Sisson, of Mississippi, made the point of order on the amendment.

The Chairman [1] ruled:

The paragraph in the bill under consideration is one making an appropriation of $4,500,000 for the enforcement of the national prohibition act. The gentleman from Missouri moves to strike out that paragraph and insert in lieu thereof the following:

"The national prohibition act, being Public, 66, Sixty-sixth Congress, is repealed on and after July 1, 1920."

It is clear to the Chair that this amendment is germane, because the entire paragraph is concerned with the matter of enforcing the national prohibition act. It also seems to the Chair that under the Holman rule and amendment is in order under the paragraph of that rule relating to the retrenchment of expenditures "by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill." The amendment offered by the gentleman from Missouri would seem to come under the last clause of the portion of the rule just referred to, for it surely reduces the amount covered by the bill by the amount of $4,500,000.

Following what the present occupant of the Chair believes to be the principle enunciated two days ago by the gentleman from Ohio, Mr. Longworth, the regular Chairman appointed by the Speaker to preside during the consideration of this bill, he feels constrained to rule that the amendment of the gentleman from Missouri is in order, and therefore overrules the point of order.

1554. On March 4, 1920,[2] the legislative, executive, and judicial appropriation bill was under consideration in the House. The question being on the passage of the bill Mr. John J. Eagan, of New Jersey, moved to recommit the bill to the Committee on Appropriations, with instructions to report it back to the House forthwith with the following amendment:

The national prohibition act, being Public, No. 66, Sixty-sixth Congress, is hereby repealed on and after July 1, 1920.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the motion to recommit provided for a change of existing law.

The Speaker [3] said:

The gentleman from Tennessee very forcefully stated the objections and the disadvantages that might arise from this application of this rule, but that goes chiefly to the wisdom of the rule, it seems to the Chair, and not to the application of it. The Chair has read the decisions made in the Committee of the Whole House on the state of the Union, and while not being bound by decisions in the committee, the Chair would always desire, because it is important that decisions be uniform, to follow the rulings made before.

And the Chair thinks, as decided in the committee, that if the repeal of a law reduces expenditures, that law being germane, an amendment providing for a repeal would be in order. But

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 3869.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

the gentleman from Indiana, Mr. Wood, suggests that the repeal of the Volstead law would not retrench expenditures. As to that, the Chair thinks the burden is on the gentleman from New Jersey to show that it would retrench expenditures.

The Chair thinks the statement of the gentleman answers the objection of the gentleman from Indiana and that the Volstead Act does make provision for officers which are a burden on the United States Treasury, and that therefore a repeal of that act would comply with the wording of the rule. And the Chair also thinks that, while he would be disposed to agree with the gentleman from Tennessee in the objections he made to the rule, yet, inasmuch as the amendment does on its face retrench expenditures, the Chair, following precedents, overrules the point of order.[1]

1555. A proposition admissible under the exception admitting retrenchments of expenditure, but accompanied by additional legislation not falling within the exception by contributing directly to the retrenchment, is not in order on an appropriation bill.

[1] Subsequently Speaker Gillett, after consideration of the above decision, was convinced that it was erroneous, and in anticipation of a similar amendment which it was thought would be proposed to the sundry civil appropriation bill the following year prepared the following decision in advance. The decision, however, was not rendered because the amendment was not offered.

"This exact question was raised on the legislative appropriation bill last year, and the Speaker, following the ruling of the temporary Chairman of the committee, held that a motion to repeal the Volstead law was in order. It is obvious that such a decision opens the door for constant fundamental changes of law by amendments to appropriation bills. It gives opportunity for constant attack on the most settled and necessary functions of the Government. The fact that a ruling has very inconvenient consequences is no proof that it is wrong, but it justifies a careful scrutiny and reconsideration of the grounds of the decision.

"The ruling of the temporary Chairman, Mr. Tilson, and the Speaker was based on the careful and logical ruling of the Chairman, Mr. Longworth, the day before that the repeal of the law creating the legislative agents was in order on the item appropriating for these agents, and it was somewhat hastily assumed that the repeal of the Volstead law was covered by that decision. But the act creating the Legislative Counsel did nothing but authorize these officials. The Appropriations Committee, by following strictly the language of the Holman rule, could have abolished these officials, and would thereby practically if not literally have repealed the act which created them. But the Volstead Act has many legislative provisions aside from those which create officers and expenditures. Is it in order under the Holman rule to repeal that? The rule as originally enacted provided:

"'Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United states, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.'

"And then at a subsequent Congress was added:

"'*Provided,* That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.'

"Is it in order under that rule for a Member on the floor to offer an amendment repealing an elaborate legislative scheme like the Volstead law? If at all, it of course must come under the first part of the rule, because nothing can come under the proviso except when offered by the authority of a committee or a commission. The first part of the rule, however, specifically says that the retrenchment must be by either the reduction of the number and salaries of officers, by a reduction of compensation, or by reduction of amounts of money covered by the bill. And the amendment must also be germane. Is an amendment repealing an elaborate legislative act like the Volstead law germane to an item in an appropriation bill which merely appropriates an amount of money for enforcing that law?

On June 2, 1892,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. When the section providing an appropriation for star routes was reached Mr. Christopher A. Bergen, of New Jersey, offered this amendment:

That when a new post office is established the Postmaster General shall immediately provide for a mail route to such office and shall make contract for carrying mail to such office, and that after providing by general advertisement for the transportation of the mails in any State or Territory, as authorized by law, the Postmaster General may secure any mail service that may become necessary before the next general advertisement for said State or Territory by posting notices, for a period of not less than ten days, in the post offices at the termini of any route to be let, and upon a bulletin board in the Post Office Department, inviting proposals, in such form and with such guaranty as may be prescribed by the Postmaster General, for the performance of the proposed service. The contract for such service shall be made to run to the end of the contract term under the general advertisement, shall be made with the lowest bidder whose proposal is in due form, and who, under the law, is eligible as a bidder for such postal service. Temporary service rendered necessary by reason of the failure of any bidder or contractor to perform the service awarded him under this provision may be employed by the Postmaster General without advertisement, at a rate which may deem reasonable, at the expense of any such failing bidder or contractor.

Mr. James H. Blount, of Georgia, raised the point of order that the amendment changed existing law and did not retrench expenditures.

The Chairman[2] ruled:

The Chair does not know whether it will increase or decrease expenditures. There is nothing on the face of the amendment to show whether it will or not; but it changes existing law, and in the absence of a direct expression on the face of the bill to show that it would decrease expenditures under the rule, the Chair will have to sustain the point of order.

Immediately Mr. Bergen offered the same amendment with the following provision appended:

And the amount of the appropriation herein for star routes is hereby reduced $500.

Mr. Blount having again raised the question of order, the Chairman held that the proposition to make in order an unrelated proposition by merely appending a

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[1]—Continued from p. 561.

"Moreover was it not intended that an amendment, in order to be in order under the first part of the rule, must not merely result in one of the retrenchments specified in the rule but must specifically provide for the exact kind of retrenchment provided in the rule, so that the repeal of a general statute would not be in order? Unless that is so, what is the purpose of the proviso? The proviso allows a committee to offer a germane amendment which merely retrenches. Was not that obviously inserted so as to allow retrenching legislation which was not so specific as required by the first section of the rule? Legislation, if it clearly retrenched, could come in under the proviso, but must be introduced by the proper legislating committee which had considered the subject and passed upon its wisdom, whereas mere specific reductions of force or salaries could be suggested by the Appropriations Committee or by any Member under the first part of the rule.

"It seems to the Chair that to give force to the proviso—and it is one of the fundamental laws of construction that every part of the law shall be given weight—it is necessary to construe the rule to mean that an amendment under the first part of it must specifically conform to the requirements of the first part and that any general legislation which retrenches expenditure must come under the proviso. Therefore, this amendment, not being offered under the authority of a committee or commission, is out of order."

[1] First session Fifty-second Congress, Record, p. 4961.

[2] Alexander M. Dockery, of Missouri, Chairman.

clause reducing the figures of an appropriation was obnoxious to the rule, and sustained the point of order.

On an appeal by Mr. Marcus A. Smith, of Arizona, the decision of the Chair was sustained by a vote of yeas 73, noes 21.

1556. On February 9, 1893,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

Court of Claims: For salaries of five judges of the Court of Claims, at $4,500 each; chief clerk, $3,000; one assistant clerk, $2,000; bailiff, $1,500; four clerks, at $1,200 each; and one messenger; in all, $34,640.

Mr. Nelson Dingley, jr., of Maine, proposed an amendment as follows:

Amend by striking out all after the words "one thousand five hundred dollars" and insert: "Three clerks at $1,200 each, and one messenger; in all, $33,440: *Provided,* That so much of an act of Congress to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government, approved March 3, 1883, as authorizes any committee of the Senate or House of Representatives to refer any claims against the Government to the Court of Claims, is hereby repealed."

Mr. Benjamin A. Enloe, of Tennessee, made the point of order that it changed existing law without retrenching expenditure.

The Chairman[2] held:

The Chair is ready to rule on the question. The amendment provides, first, for a reduction of the clerical force in the Court of Claims; and then provides for the repeal "pro tanto" of what is known as the Bowman Act. The rule of the House provides that before a proposition changing existing law shall be in order in an appropriation bill it must be germane to the subject matter of the bill and retrench expenditures, and so forth.

The first question for the Chair to decide is whether this proposition is germane to the pending bill. Now, the first part of this amendment, so far as it reduces the clerical force, or the number of employees, is clearly germane. The latter part of it repeals or modifies the Bowman Act.

Now, the amendment certainly covers two substantive propositions. One is in order, and retrenches expenditures in the manner provided in the rule. The other does not. The amendment, therefore, is obnoxious to the rule, because the latter clause is obnoxious. Of course if a part of an amendment is out of order, the whole of it is.

If the gentleman proposed to accomplish simply the repeal of the Bowman Act by a provision in the appropriation bill, he would be compelled to hold immediately that it was not in order. Now, when he seeks to couple with it a reduction of the employees of the Government, with a view of making the latter part of it within the rule, it seems to the Chair it can not be done.

If this can be done, then the whole internal-revenue law could be repealed in this appropriation bill; because the bill provides for paying some of the employees or clerical force of the Internal Revenue Service. Now, if the gentleman moved to strike out the appropriation for one clerk in that bureau, he could, if this amendment is in order, hang upon that a provision repealing the internal-revenue law and other laws where clerical forces are appropriated for in this bill.

The further proposition is maintained that the amendment retrenches expenditures. How? It is insisted that if this amendment be adopted there will be fewer claims referred to the Court of Claims by the Senate and by the House, acting jointly or acting separately.

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[1] Second session Fifty-second Congress, Record, p. 1392.

[2] James D. Richardson, of Tennessee, Chairman.

In order for the Chair to reach that conclusion he is asked to hold that the committees of the House improvidently refer claims, but that the House or Senate would not improperly do so. If the House and Senate act lawfully, the same number would be referred by the committees that are referred by the two Houses. Therefore, the Chair can not conclude that the committees would not do their duty and that they would refer more cases than the two Houses would refer and thereby create a larger demand for clerical force for the Court of Claims, and if not there would be no retrenchment in fact.

The Chair sustains the point of order.

1557. On February 18, 1918,[1] the urgent deficiency appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph was reached providing an appropriation of $4,000,000 as a revolving fund for the purchase and sale of seeds to farmers at cost.

Mr. Frank W. Mondell, of Wyoming, offered this amendment as a substitute for the paragraph:

To enable the Secretary of Agriculture to meet the emergency caused by the need for food and seed crops by purchasing or contracting with persons who grow seeds suitable for the production of food crops and to store, transport, and furnish such seed to farmers for cash at approximately the cost of the same or on credit with approved security of financial or business organizations guaranteeing the same, $6,000,000, and this fund may be used as a revolving fund until the Secretary of Agriculture determines that no such emergency exists, and the Secretary of Agriculture is authorized to pay all such expenses, including rent, and to employ such persons and means in the District of Columbia and elsewhere and to cooperate with such State authorities or local organizations or individuals as he may deem necessary.

The amendment being ruled out on the point of order made by Mr. Swagar Sherley, of Kentucky, that it comprised legislation, Mr. Mondell offered it in this form:

For additional for procuring, storing and furnishing seeds as authorized by section 3 of the act entitled "An act to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products," approved August 10, 1917, including not to exceed $5,000 for rent and personal service in the District of Columbia, $3,999,000, which may be used as a revolving fund until June 30, 1918, and the seeds secured and purchased out of this appropriation may be sold to farmers for cash at their approximate cost, or on credit with approved security of responsible organizations guaranteeing the repayment of same.

Mr. Sherley again raised a question of order and said:

Mr. Chairman, the reason that the matter is subject to the point of order is because the legislative part of it does not in any sense result in a reduction of the expenditure. If the gentleman's broad contention was true all you would have to do touching any amendment to make it in order would be to reduce by 1 cent any money item in a bill, then add whatever language you pleased, and, according to the gentleman's contention, you would thereby be reducing the expenditure. But the rule was not made for that sort of a case. The rule is that for an amendment to be in order under the Holman rule it must be of such a character as to result in a reduction of salaries or expenses or the general amount carried in the bill. Selling on credit instead of for cash will not save money to the Government of the United States, and I submit the matter is manifestly subject to the point of order.

The Chairman[2] held:

The situation developed by this amendment is as follows: The amendment first proposes to reduce the amount carried in this paragraph. That is perfectly competent under parliamentary

[1] Second session Sixty-fifth Congress, Record, p. 2280.

[2] Edward W. Saunders, of Virginia, Chairman.

law. In addition it is proposed for legislation to accompany the reducing portion of the amendment. But this legislation has no sort of relation to the proposed reduction. It is perfectly competent to legislate on an appropriation bill, provided the legislation proposed necessarily effects a reduction; but it is just as plainly incompetent to propose a reducing amendment to an appropriation bill, a motion which can be made at any time without reference to the Holman rule, and then undertake to attach to this motion legislation which does not effect the reduction and is not in any wise related to it.

Now, that is the situation presented by the amendment of the gentleman from Wyoming, and his amendment is plainly out of order. The point of order is sustained.

1558. While unrelated legislation coupled with a retrenchment is not in order on an appropriation bill, a single clause or sentence which, if isolated, could not be construed as reducing expenditure but which forms a constructive and integral part of the paragraph, is not subject to a point of order.

On February 15, 1912,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when this paragraph was reached:

That the office establishments of the Quartermaster General, the Commissary General, and the Paymaster General of the Army are hereby consolidated and shall hereafter constitute a single bureau of the War Department, which shall be known as the bureau of supplies, and of which the chief of the supply corps created by this act shall be the head. The Quartermaster's, Subsistence, and Pay Departments of the Army are hereby consolidated into and shall hereafter be known as the supply corps of the Army. The officers of said departments shall hereafter be known as officers of said corps and by the titles of the rank held by them therein, and, except as hereinafter specifically provided to the contrary, the provisions of sections 26 and 27 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," are hereby extended so as to apply to the supply corps in the manner and to the extent to which they now apply to the Quartermaster's, Subsistence, and Pay Departments, and the provision of said sections of said act relative to chiefs of staff corps and departments shall, so far as they are applicable, apply to all offices and officers of the supply corps with rank above that of colonel. The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the supply corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank. So long as any officers shall remain on said list any vacancy occurring therein shall be filled, if possible, from among such officers, by selection if the vacancy occurs in a grade above that of colonel, and, if the vacancy occurs in a grade not above that of colonel, by the promotion of an officer who would have been entitled to promotion to that particular vacancy if the consolidation of departments hereby prescribed had never occurred. The noncommissioned officers now known as post quartermaster sergeants and post commissary sergeants shall hereafter be known as supply sergeants; the Army paymaster's clerks shall be known as pay clerks, and each of said noncommissioned officers and pay clerks shall continue to have the pay, allowances, rights, and privileges now allowed him by law: *Provided,* That no details to fill vacancies in the grade of major in the supply corps shall be made until the number of officers of that grade shall have been reduced by 11, and thereafter the number of officers in said grade shall not exceed 46; and no details to fill vacancies in the grade of captain in the supply corps shall be made until after the number of officers of that grade shall be reduced by 31, and thereafter the number of officers of said grade shall not exceed 100; and whenever the separation of a line officer of any grade and arm from the supply corps shall create therein a vacancy that, under the terms of this proviso, can not be filled by detail, such separation shall operate to make a permanent reduction of one in

[1] Second session Sixty-second Congress, Record, p. 2114.

the total number of officers of said grade and arm in the line of the Army as soon as such reduction can be made without depriving any officer of his commission: *Provided further,* That whenever the Secretary of War shall decide that it is necessary and practicable, regimental, battalion, and squadron quartermasters and commissaries shall be required to perform any duties that junior officers of the supply corps may properly be required to perform, and regimental and battalion quartermasters and commissary sergeants shall be required to perform any duties that noncommissioned officers or pay clerks of the supply corps may properly be required to perform: *Provided further,* That such duty or duties as are now required by law to be performed by any officer or officers of the Quartermaster's, Subsistence, or Pay Departments shall hereafter be performed by such officer or officers of the supply corps as the Secretary of War may designate for the purpose: *Provided further,* That there shall be a chief of the supply corps, who shall have the rank of major general while so serving, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among the officers of said corps and in accordance with the requirements of section 26 of the act of Congress approved February 2, 1901, hereinbefore cited: *Provided further,* That when the first vacancy in the grade of brigadier general in the supply corps, except a vacancy caused by the expiration of a limited term of appointment, shall hereafter occur that vacancy shall not be filled, but the office in which the vacancy occurs shall immediately cease and determine: *Provided further,* That the supply corps shall be subject to the supervision of the Chief of Staff to the extent the departments hereby consolidated into said corps have heretofore been subject to such supervision under the terms of the existing law.

Mr. George W. Prince, of Illinois, said in raising a question of order:

Mr. Chairman, I make the point of order against the entire paragraph. The point of order is largely based upon what appears on page 52:

"*Provided further,* That there shall be a chief of the supply corps, who shall have the rank of major general while so serving, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among the officers of said corps and in accordance with the requirements of section 20 of the act of Congress approved February 2, 1901, hereinbefore cited."

On page 50 the Chair will note the following:

"The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the supply corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank."

One list is created by this section, and from that one list there shall be selected a chief of supply corps, who shall have the rank of major general. This is subject to a point of order, because it does not reduce the number of officers, it does not reduce the pay of an officer, but, on the contrary, creates a new officer with additional pay; and it seems to me, in view of the ruling of the Chair this morning—that where one part of a paragraph or section is subject to a point of order the entire paragraph or section goes out—that the same ruling must prevail as to this, and I shall expect the Chair to hold likewise, in view of the proviso on page 52.

The Chairman [1] ruled:

In the present case a section is presented by the committee as a concrete whole. It is constructive legislation, in which each part bears an appropriate relation to the whole. It is an entity of independent, but related parts. It is submitted as a complete legislative proposition. This being so, it should be considered as a whole and not in segregated items. The section is presented as a whole, and when considered as a whole it conforms to the requirements of the Holman rule. A paragraph here and a sentence there taken as isolated propositions may not be retrenched expenditures, but the Chair does not think that a really single proposition should be picked to pieces in this manner and destroyed in this fashion by parliamentary rulings, when as a whole the section effects a large retrenchment. In this instance the point of order is not good against the whole

[1] Edward W. Saunders, of Virginia, Chairman.

section, for, viewed as a whole, it effects a considerable retrenchment, and is not subject to a point of order. The Chair will not entertain piecemeal motions unless the paragraphs to which these motions or points of order are directed are not parts of the complete proposition. The motions or points of order are directed are not parts of the complete proposition. The committee having jurisdiction has reported a concrete section, carrying independent legislation. It should be considered as such. Looking to the section as a whole, and to the correlated parts, it carries a reduction. It has not been denied in argument that this section as a whole will effect a considerable retrenchment. The point of order is overruled.

1559. On January 13, 1913,[1] the Post Office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read the following paragraph:

For inland transportation by railroad routes, $49,000,000: *Provided,* That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

To this paragraph Mr. Fred S. Jackson, of Kansas, offered the following amendment:

Amend by striking out "$49,000,000" and insert in lieu thereof "$48,500,000"; and by adding thereto:

"'Provided, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness, of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

Mr. John A. Moon, of Tennessee, made a point of order against the proviso of the amendment.

The Chairman[2] ruled:

The present occupant of the chair has been in the chair on different occasions when different phases of this Holman rule have been construed, and the Chair thinks that the reading of such decisions as he has already made upon those matters will indicate the tendency of the present occupant of the chair to always construe that rule strictly and not to give it wider latitude than the clear import of the language used in it justifies. The Chair is disposed to apply that same principle in the decision that he is now called upon to make.

The amendment proposed by the gentleman from Kansas is as follows:

"Amend by striking out '$49,000,000' and insert in lieu thereof '$48,500,000,' and by adding thereto:

"Provided, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors, for transmission to or delivery in any State, county, municipality, wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States; and the Postmaster General is hereby authorized and directed

[1] Third session Sixty-second Congress, Record, p. 1471.

[2] Finis J. Garrett, of Tennessee, Chairman.

to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.'"

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

The decision referred to has been read, but the order was not altogether good at the time, and the Chair will ask the indulgence of the House while he reads it again:

"On May 5, 1880, the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. George D. Robinson, of Massachusetts, offered this amendment to the paragraph providing $9,500,000 for transportation of mails on railroad routes:

"Strike out all in the sixtieth and sixty-first and sixty-second lines between the word namely,' in the sixtieth line, and the word '*Provided*,' in the sixty-second line, and substitute the following:

" 'For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the Postal Service for the fiscal year ending June 30, 1881.' "

"Mr. James H. Blount, of Georgia, made a point of order against the amendment, under Rule XXI, as it then existed, in a modified form adopted at that session of Congress:

' "Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and the salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.' "

The Chair will state that the form was the same as it is now, except that it did not then contain the proviso, or at least the proviso was not invoked in that discussion.

After debate, the Chairman, Mr. John G. Carlisle, of Kentucky, overruled the point of order in the following language:

"Although the meaning of the words 'necessary and special facilities for postal service' is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States; or, second, by reducing the compensation of persons paid out of the Treasury of the United States; or, third, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill; but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out '$9,500,000' and inserting '$9,490,000.' So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide; but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order."

We have here one more proposition than was contained in the proposition on which Mr. Carlisle then had occasion to rule. That contained a proposition to reduce the amount, a proposition to authorize $150,000 for a certain purpose. The proposition presented by the gentleman from Kansas seeks to reduce the amount, and then it proposes to have certain governmental activities or to lay certain limitations that upon the face of it would appear to the Chair to make it possible to make some reduction of amount at least, and then another proposition similar to that which was contained in the amendment ruled upon by Mr. Carlisle.

It seems to the Chair that the proviso against which the gentleman from Tennessee makes the point or order is so related to that portion of the amendment proposed by the gentleman from Kansas, which is admitted to be in order, that it is germane, and the Chair therefore overrules the point or order.

1560. An amendment proposing legislation which will not patently reduce expendition, is not in order under the Holman rule.

A proposition to reduce a total in an appropriation bill is in order without reference to the Holman rule and nonretrenching legislation is not admissible merely because associated therewith.

On January 16, 1913,[1] the Army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union. This paragraph was read:

For pay of officers on the retired list and for officers who may be placed thereon during the current year, $2,877,000.

Mr. John Q. Tilson, of Connecticut, offered the following amendment:

Strike out "$2,877,000" and insert in lieu thereof the following: "$2,874,500: *Provided,* That hereafter when any officer who has been retired for disability is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, with the rank and relative position he would have held if he had not been retired: *Provided further,* That such officer shall continue as an extra officer only until such time as a vacancy shall occur in his grade and arm of the service, and if again retired for disability he shall be retired with the rank and pay received by him before his reinstatement."

Mr. James Hay, of Virginia, having made a point of order on the amendment, the Chairman[2] proceeded to rule as follows:

Having in mind the possible number of restorations that will reasonably follow upon the enactment of this amendment, and the suggestion that an officer who was retired in one rank might be restored in an advanced rank carrying larger pay, it is perfectly clear, to the Chair at least, that it can not be reasonably ascertained that the operation of this amendment will reduce expenditures. The view taken by the Chair is that the crucial test of a proposition submitted under the Holman rule is whether it will effect a retrenchment. In this connection, I am referring to the legislative features of the amendment. The Chair before holding such a legislative proposition to be in order must be satisfied, to a reasonable certainty, that in its working effect it will reduce expenditures. It am not satisfied that a reduction of expenditures will attach to the operation of this amendment. Hence it is not within the rule, and the point of order must be sustained.

The Chair has ruled heretofore that a reduction can not be made a peg on which to hang any sort of legislation. It the legislation brings about the reduction, that is another situation; but the mere fact that a reduction is offered in an aggregate total does not justify legislation which can not be reasonably regarded as the efficient cause of the reduction. The legislation must be the efficient inducing cause of the reduction. In the meantime the extra compensation might amount to a great deal more than the reduction of $2,500. That is what the Chair is seeking to point out. You can not possibly figure out that the reduction of $2,500 is a necessary consequence of this amendment. The arguments pro and con are too nearly balanced, the facts are too uncertain, to furnish the ground for a satisfactory conclusion of retrenchment.

Mr. James R. Mann, of Illinois, here interposed:

Will the Chair permit me a moment on the point of order?

Under the Holman rule there are four phases of adding legislation to an appropriation bill. The last one, which of course is not applicable to this amendment, is that it shall be in order.

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[1] Third session Sixty-second Congress, Record, p. 1635.

[2] Edward W. Saunders, of Virginia, Chairman.

further to amend such bill upon the report of a committee, and so forth, which amendment, being germane to the subject matter of the bill, shall retrench expenditures.

Under that provision of the Holman rule, as I understand the decisions, it is necessary for the Chair to be able to see on the face of the amendment, or with such information as he is furnished, that the amendment will reduce expenditures.

There is the other provision in the Holman rule—

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

It is admitted that the amendment is germane to the bill. I assume that it is because it is perfectly patent on its face. The amendment is germane to the bill. Now, the amendment does reduce the amount of money covered by the bill carrying legislation with that which it is claimed will further reduce the expenditures of the Government. But I do not understand from the decisions heretofore made that it is the duty of the Chair to determine whether the additional legislation will reduce expenditures of not when it is coupled with the proposition which does in fact reduce the amount of carried by the bill.

It is for the House, then, to determine whether, in their opinion, there will be a reduction of expenditures which would entitle House to favor the amendment. It is impossible in any event, except where you cut off officers or cut off salaries, or dispense with the service through officers or salary, to say that anything will reduce expenditures. These two points are carried by the first two provisions of this rule—"shall retrench expenditures by the reduction of the number and salary of the officers or by reduction of the compensation of any person." There is practically no other way of reducing except by decreasing the purchase of supplies.

Here is an amendment which does, in fact, reduce the amount of money carried by the bill, but is claimed that the reason for making that reduction is that the legislation proposed will accomplish the reduction. I do not see how there is any escape from the proposition that the amendment making a reduction in the amount carried by the bill and carrying legislation with it for the purpose of making the retrenchment is in order.

My contention is that it reduces the amount carried in the bill, with a germane amendment which it is contended accounts for that reduction.

The Chairman concluded:

First, in relation to the suggestion of the gentleman from Illinois, that the amount covered in this bill is reduced, it may be said that the suggestion is well taken. The aggregate total is reduced by the amount of $2,500. Having this reduction in mind it is argued that germane legislation sufficient to account for that reduction is in order. The Chair admits that this argument is sound, and holds the germane legislation effecting the reduction is in order. But unrelated legislation can not be attached to the reduction, for an amendment reducing a total does not require the authority of the Holman rule and hence can not be made the basis of legislation which is not the necessary and efficient cause of the reduction. Using the reduction in the total as a peg, you can not hang all sorts of unrelated legislation on that reduction. The reduction must be accounted for by the legislation, and the point that the Chair undertakes to present in this connection is that, after listening to the contention of the participants in this debate, and looking to the amendment, he is unable to perceive that in its necessary operation it will effect the reduction of $2,500, of any portion thereof. If it does not effect this reduction, then it is not in order. If it does account for it, the Chair will hold that the amendment is in order. From the arguments submitted the Chair understands that the possible effect of this amendment will be to restore an indefinite number of officers to their old pay, or possibly to greater pay, since their grade may be advanced. They may or may not render the promotions of other officers unnecessary or reduce the number required. For a time at least they might receive this increased pay without rendering service. It is difficult to see that in its operation as a whole this amendment will reduce expenditures. In fact its economic operation is altogether problematic. The Chair sustains the point of order.